

**EXHIBIT D**  
**RESTRICTIVE COVENANT**

ARCO Products Company.

1652 S.W. Lander Street, Seattle, Washington

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by ARCO Products Company (a division of the Atlantic Richfield Company), its successors and assigns.

Remedial action (hereafter "Remedial Action") is to be conducted on the Property that is the subject of this Restrictive Covenant. The Remedial Action is described in the Final Cleanup Action Plan, (CAP), ARCO Terminal 21T, Harbor Island. This document is an exhibit to the Consent Decree entered in State of Washington, Department of Ecology vs. ARCO Products Company, King County Case No.....

This Restrictive Covenant is required because residual concentrations of dissolved total petroleum hydrocarbons and its constituents (e.g. benzene, cPAH), that exceed the Surface Water Quality standards for groundwater established under WAC 173-340-720 may remain after Remedial Action is completed, and because total petroleum hydrocarbon contaminated soils may be left in the subsurface at the Property.

The undersigned, ARCO Products Company, a division of the Atlantic Richfield Company, is the fee owner of real property (hereafter "Property") in the County of King, State of Washington, that is subject to this Restrictive Covenant. The Property is legally described in Attachment A of this Restrictive Covenant and made a part hereof by reference.

ARCO Products Company, a division of the Atlantic Richfield Company, makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereafter "Owner").

Section 1.

a. The Property shall be used only for traditional industrial uses, as described in RCW 70.105D.020(22) and defined in and allowed under the City of Seattle's zoning regulations codified in the City of Seattle Zoning Code as of the date of this Restrictive Covenant.

b. No groundwater may be taken for any purpose from the Property that is inconsistent with the Remedial Action implementation.

Section 2.

- a. As of the date the Consent Decree was entered, a portion of the Property contains total petroleum hydrocarbons in the soil, polynuclear aromatic hydrocarbons (cPAHs), dissolved total petroleum hydrocarbons in the groundwater, floating product on the water table, vapors in soil located under the warehouse and near the loading rack as shown in the attached figure (Attachment B). The Owner shall not alter, modify, or remove the existing structure(s) in any manner that may result in the release or exposure to the environment of the contaminated soil or create a new exposure pathway without prior written approval from Ecology, which approval will not be unreasonably withheld. Site workers conducting construction activities within the protective zone of contamination will be instructed on precautionary actions to avoid direct contacts with contaminated soils, groundwater or exposure to vapor and fumes and on appropriate methods for handling such wastes.
- b. Elevated concentrations of residual petroleum hydrocarbons are also present in the area of above-ground storage tanks no. 1, 4, 5, 6, 8, 9, 11, 13 and the loading rack in Plant 1, and near tanks 20001, 20007, 20008 and 59001 in Plant 2. These areas are shown in the figures in Attachment B. Site workers conducting construction activities within these areas will follow the Safety and Health Plan. Also they will be instructed on precautionary actions to avoid direct contact with contaminated soils and groundwater to ensure protection of site workers.
- c. Any activity on the Property that is inconsistent with the Remedial Action implementation, or may create a new pathway to the existing contamination that endangers the public health and the environment, is prohibited without written approval from Ecology, which approval shall not be unreasonably withheld.

Section 3. The Owner of the Property must give thirty (30) days advance written notice to Ecology prior to a conveyance or transfer of any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action if such Remedial Action is necessary and ongoing at the time of any conveyance or transfer of any interest in the Property.

Section 4. The owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 5. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may



IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal  
the day and year first above written.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Please print name legibly)

NOTARY PUBLIC in and for the State of  
Washington, residing at

\_\_\_\_\_  
My commission expires: \_\_\_\_\_.