State of California
California Environmental Protection Agency
AIR RESOURCES BOARD

VARIANCE ORDER G-856-001

Relating to an Application for an Emergency Variance from
Sections 2262.1-2262.7, Title 13, California Code of Regulations

by

Chevron Products Company
575 Market Street
San Francisco, CA 94105

FINDINGS AND DECISION OF THE EXECUTIVE OFFICER

A hearing was held on July 14, 1999, to consider an application for an emergency variance submitted by Chevron Products Company (Chevron). The hearing was held pursuant to section 2271(h), title 13, California Code of Regulations[1] (CCR). The hearing officer present was Peter D. Venturini, Chief of the Stationary Source Division of the Air Resources Board (ARB). Evidence was received from the applicant and interested parties, and the matter was taken under submission. Upon making a decision, the Hearing Officer presented his recommendation to the Executive Officer of the Air Resources Board, who concurred with the hearing officer's decision.

The Executive Officer, hereby accepts the recommendations of the Hearing Officer, and finds and decides as follows:

FINDINGS OF FACT

A. Section 2271(h) authorizes the Executive Officer to grant an emergency variance after holding a hearing without complying with the provisions of subsections 2271(b)(1) and (c), upon a showing of reasonably unforeseeable economic hardship and good cause that a variance is necessary. Section 2271(h)(2) further provides that no emergency variance shall exceed 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the standards from which the variance has been granted

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[1] All section references are to Title 13, California Code of Regulations unless otherwise indicated.

within the 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in section 2271(d) should be made.

B. In accordance with section 2271(h)(2), all persons requesting notice of hearings for emergency variances under section 2271 were notified by facsimile or telephone of the hearing. Notification by e-mail was also provided to all persons on the ARB's motor vehicle fuels Listserve list.

C. Chevron submitted an application, dated July 13, 1999, for an emergency variance from the California reformulated gasoline regulations, sections 2262.1 through 2262.7. The requested period of variance is 45 days from the issuance of the requested variance. The application stated that the emergency variance was sought for gasoline production and distribution from Chevron's refinery in Richmond, California (the "Richmond refinery"). In their application and testimony, Chevron representatives requested that the variance would apply to a maximum of 3,500,000 barrels of gasoline over the 45 day variance period.

D. Without immediate relief from the gasoline regulations, Chevron will not be able to supply its customers with volumes of fuel they need to meet demand.

E. Chevron is currently unable to produce its normal volumes of complying fuel at the Richmond refinery. On March 25, 1999 an explosion and fire occurred in the hydroprocessing complex of Chevron's Richmond Refinery damaging the refinery's Fluid Catalytic Cracker (FCC) feed hydrotreating and hydrocracking units. Since then Chevron has been able to maintain about 85 percent of normal operation.

F. On Friday, July 9, 1999, a leak developed in a steam generator in the operating FCC at the Richmond refinery, and the unit was shut down. On Saturday, July 10, 1999, an explosion took place in the FCC electrostatic precipitator, leaving it severely damaged and rendering the FCC completely inoperable. These events were unforeseeable and beyond Chevron's reasonable control. Initial repair estimates range from several weeks for 50% precipitator operation to several months for full operation. With both the FCC and the hydrocracking units now out of commission and no feed being produced for the alkylation unit, gasoline component production in the Richmond refinery is limited to just straight run gasoline derived from the crude unit, reformate, and a few other minor streams from other units still operating. These remaining streams enable Chevron to produce about 30,000 bpd of complying gasoline at the Richmond refinery — a shortfall of about 80,000 bpd from normal operations.

G. Since March 25, Chevron has sought to acquire complying gasoline to supply its customers, and has been able to purchase sufficient quantities of complying fuel. However, after the explosion on July 10 Chevron's production was curtailed further and

Chevron was unable to acquire enough complying fuel for immediate distribution in northern California.

H. Gasoline production and inventories in California are low. According to testimony by staff of the California Energy Commission, gasoline production as of July 13, 1999 is 120,000 barrels per day lower than it was last week, and as of July 9, 1999, inventories of finished gasoline were down about 16 percent compared to the same time last year and inventories of gasoline blending components were about 22 percent lower than they were at the same time last year. The California Energy Commission staff supported granting the emergency variance to Chevron.

I. Chevron plans to produce at least 30,000 barrels per day of complying gasoline at the refinery until repairs can be made.

J. Chevron's loss in nominal production is about 80,000 barrels of complying fuel per day. This represents about 25 percent of the entire supply to northern California. A sudden inability to supply fuel at that rate could cause supply disruptions and an extraordinary hardship to Chevron's customers who rely on a supply from Chevron and could have a major effect on the complying fuel market.

K. In its application, Chevron estimated that if all 3,500,000 barrels of variance gasoline were sold during the variance period, the increase in emissions in areas where the variance gasoline is likely to be sold is estimated to be approximately 23 tons per day of volatile organic compounds and 7 tons per day of oxides of nitrogen.

L. During a variance, Chevron agreed they would endeavor to obtain and supply the cleanest gasoline available. Chevron also committed to supply as much complying gasoline as possible. Chevron has the expectation that the full amount of variance fuel will not be needed.

M. Chevron agreed to pay the fee specified in section 2271(f)(2). The fee is $0.15 for each gallon of gasoline sold or released for sale under variance during the term of the variance. All variance fee revenues will be transmitted to the State Treasurer for deposit in the High Polluter Repair or Removal Account. This money, upon appropriation by the Legislature, will be used to implement a program for accelerated retirement of light duty vehicles to reduce air emissions.

N. Based on Chevron's efforts to date to acquire complying gasoline, and testimony of the California Energy Commission staff, it is expected that, by August 30, 1999, Chevron will be able to meet its customer demands with complying gasoline that Chevron produces and imports.

CONCLUSIONS

a. Because of the reasonably unforeseeable conditions discussed in paragraphs C through N, there is good cause to grant an emergency variance to Chevron for gasoline it produces at its Richmond refinery.

b. Without issuance of an emergency variance, Chevron, users of California gasoline supplied by Chevron would experience supply disruptions and reasonably unforeseeable extraordinary economic hardship.

c. The public interest in avoiding the extraordinary hardship that would result from failure to issue a variance outweighs the public interest in avoiding the emissions increases resulting from the variance. The variance conditions set forth below include measures that will minimize the emission increases to the extent possible.

ORDER, TERMS AND CONDITIONS

NOW, THEREFORE, IT IS ORDERED, that Chevron is granted an emergency variance from sections 2262.1 - 2262.7, title 13, CCR, subject to the following conditions:

Meaning of Terms

1. Unless otherwise indicated, terms in this variance order shall have the same meaning as set forth in section 2260.

2. The following definitions apply in this variance order:

   (a) "Complying gasoline" means California gasoline that meets the requirements of sections 2262.1 - 2262.7.

   (b) "Chevron's complying gasoline" means gasoline that is produced or imported by Chevron and that Chevron claims, and can demonstrate, meets the limits in sections 2262.1 - 2262.7.

   (c) "Variance Gasoline" means gasoline described in Paragraph 4 below.

   (d) "Variance Area" means the area of California that excludes (i) the counties of Los Angeles, San Bernardino, Ventura, Orange, Riverside, San Diego, and Imperial, and (ii) the Sacramento Metro ozone nonattainment area as specified in 40 CFR section 81.305; maps identifying the approximate boundaries of the Sacramento Metro ozone nonattainment area are attached to this order.

(e) "To ship" means to release from the Point of Sale.

(f) "Point of Sale" means the specific point at which sales or supplies of Variance Gasoline or complying gasoline are made by Chevron during the term of this variance from the import facility or production facility at which the gasoline was imported, produced, or otherwise acquired.

Variance Period

3. This variance shall be effective from 12:00 a.m., July 16, 1999, to 12:00 a.m., August 30, 1999, except that it shall cease to be effective upon failure of Chevron to substantially comply with any term or condition of the variance.

Gasoline Subject to Variance

4. This variance applies to a maximum of 3,500,000 barrels of gasoline produced, imported or otherwise acquired by Chevron, and shipped by Chevron from a Point of Sale during the variance period, for vehicular use in the Variance Area. The maximum volume of 3,500,000 barrels shall be reduced by (a) the volume of complying fuel produced by Chevron and shipped from its Richmond refinery during the variance period in excess of 30,000 barrels per day, and (b) the volume of complying gasoline acquired by Chevron and shipped from a Point of Sale during the variance period pursuant to Paragraph 9. The total volume of Variance Gasoline shipped from Points of Sale over any two-week period during the variance shall not exceed an average of 77,800 barrels per day. If the variance terminates before August 30, 1999, the maximum volume of Variance Gasoline may not exceed an average of 77,800 barrels per day, less the reductions identified above, averaged over the variance period.

5. Once a given volume of Variance Gasoline has been shipped by Chevron from a Point of Sale in accordance with this variance, subsequent sales or supplies of that volume by any producer, distributor, retailer, or user for use in the Variance Area shall be exempt from the requirements of sections 2262.1 - 2262.7. However, the Reid vapor pressure of such gasoline shall not exceed 7.80 pounds per square inch, determined in accordance with section 2263.

Minimizing Emissions

6. All Variance Gasoline shall have a Reid vapor pressure not exceeding 7.80 pounds per square inch, determined in accordance with section 2263.

7. Chevron shall make all reasonable and prudent efforts to assure that all Variance Gasoline has a sulfur content not exceeding 300 parts per million, determined in accordance with section 2263. With regard to any final blend of Variance Gasoline having a sulfur

content exceeding 300 parts per million notwithstanding Chevron's efforts to the contrary, Chevron shall notify the Executive Officer of the identity of the final blend and the circumstances of its acquisition.

8. All Variance Gasoline shall meet the current American Society of Testing and Materials (ASTM) D 4814 specifications applicable to Portland, Oregon.

9. Throughout the term of this variance, Chevron shall produce and supply as much complying gasoline at its Richmond refinery as is reasonably feasible, taking into consideration its needs to produce other products and to repair and bring back up refinery units.

10. Throughout the term of this variance, Chevron shall make continuing good faith and diligent efforts to acquire available complying fuel, in order to supply such complying fuel to its customers in place of Variance Gasoline. To the extent that Chevron is unable to obtain complying gasoline despite its good faith efforts, Chevron shall make good faith and diligent efforts to obtain Variance Gasoline that meets all applicable specifications for federal reformulated gasoline as set forth in 40 CFR §80.41.

11. Chevron shall make all reasonable efforts to avoid shipment of Variance Gasoline by common carrier pipeline, so that such common carriers are able to maintain their current programs for assuring compliance with the California reformulated gasoline regulations.

Payment of Variance Fee

12. Chevron shall pre-pay to the ARB a variance fee of $0.15 for each gallon of Variance Gasoline shipped from a Point of Sale, in accordance with this order. Chevron shall make the pre-payments on a semi-monthly or more frequent basis. Chevron shall not ship any Variance Gasoline from a Point of Sale unless the variance fee for that gasoline has been pre-paid.

13. The ARB shall deposit the variance fee pre-payments in a holding account. Upon confirmation that Chevron has shipped a given volume of Variance Gasoline from a Point of Sale, the ARB shall periodically transfer a sum representing $0.15 per gallon for that given volume from the holding account to the State Treasurer for deposit in the High Polluter Repair or Removal Account created pursuant to Health and Safety Code section 44091(a).

14. After the termination of the variance, upon determining that Chevron has overpaid a sum to the ARB, the ARB shall return the amount of the overpayment to Chevron.

Assuring Compliance with Variance Conditions

15. All Variance Gasoline and all of Chevron's complying gasoline that is supplied by Chevron during the term of the variance shall be shipped from Points of Sale designated for the ARB by Chevron. For shipments before July 27, 1999, Chevron shall notify the Executive Officer of the Point of Sale designations as early as practicable, but no later than 12 hours before the shipment begins.

16. Chevron shall sample and analyze each final blend of Variance Gasoline and Chevron's complying gasoline shipped from a Point of Sale during the variance period, to determine each of the properties regulated by sections 2262.1 - 2262.7, in accordance with section 2263.

17. Not later than July 26, 1999, Chevron and the Executive Officer shall enter into a mutually agreeable protocol (the "Protocol") on recordkeeping and reporting requirements reasonably necessary to assure Chevron's compliance with the conditions of this variance. Pending execution of the Protocol, Chevron shall maintain records that would be reasonably anticipated to be necessary to demonstrate compliance with the conditions. The Protocol shall enable the Executive Officer to effectively monitor the quantities, properties, Points of Sale and destinations of Variance Gasoline and Chevron's complying gasoline shipped from Points of Sale during the term of the variance. The Protocol shall also enable the Executive Officer to effectively monitor compliance with Paragraphs 6 through 11. During the development of the protocol, operators of common carrier pipelines shall be consulted. Chevron shall maintain records required by the Protocol for not less than two years, and shall make the records available to the Executive Officer upon request. Upon execution, the Protocol shall be incorporated as part of this variance order.

18. All notifications or reports to the Executive Officer pursuant to this variance shall be sent to the Executive Officer of the ARB with copies to the Chief of the Stationary Source Division and the Chief of the Compliance Division, at the following address:

Air Resources Board
2020 L Street
Sacramento, CA 95812

Progress Towards Compliance

19. By July 31, 1999, Chevron shall report to the ARB on (a) the steps that Chevron is taking to make necessary repairs at the Richmond refinery to enable the production of complying gasoline at historical levels, (b) the projected time frame for the repairs, (c) Chevron's anticipated schedule for increasing production of complying gasoline, and (d) any developments that would affect its ability to meet its customer demands with produced or acquired complying gasoline on and after August 30, 1999.

Executed at Sacramento, California this 15th day of July, 1999.

Peter D. Venturini, Hearing Officer

Michael P. Kenny, Executive Officer

Sacramento Metropolitan Federal Reformulated Gasoline Area

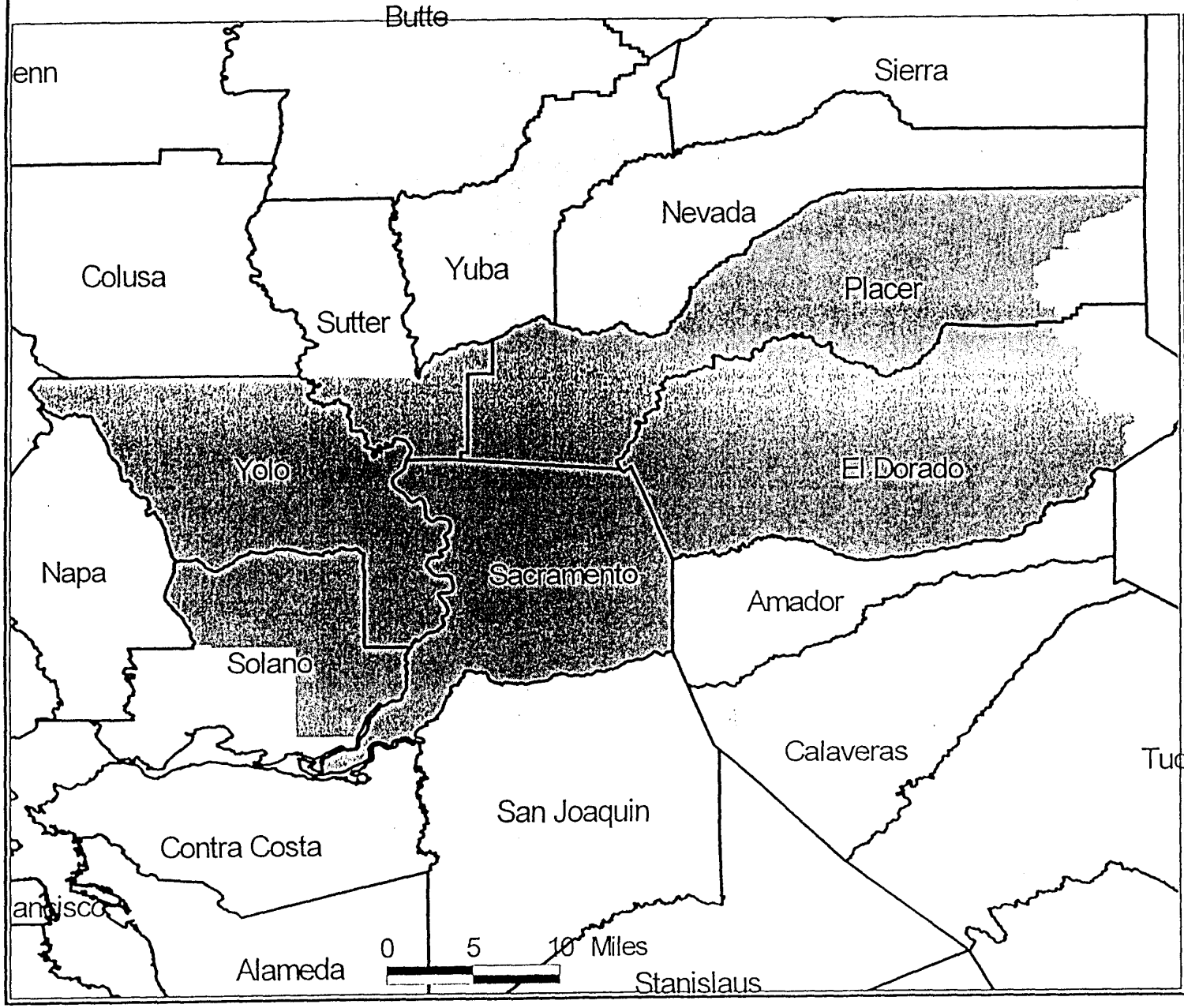

EXHIBIT 2

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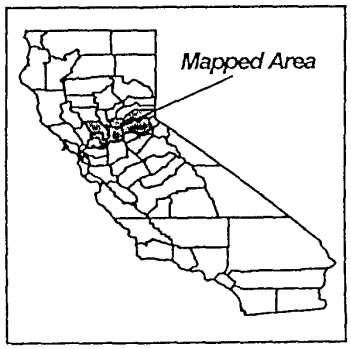
This map represents the Sacramento Metro ozone nonattainment area, reflecting the boundaries designated by U.S. EPA in 40 CFR section 81.305. Pursuant to 40 CFR section 80.70(k), this area became subject to the federal reformulated gasoline (RFG) requirements on June 1, 1996, one year after the effective date of U.S. EPA's redesignation of the area as "Severe Nonattainment" (63 FR 20238 (April 25, 1995)). The coverage used to make the map was created August 1994 by Teale Data Center.

Federal RFG Area
County Boundaries



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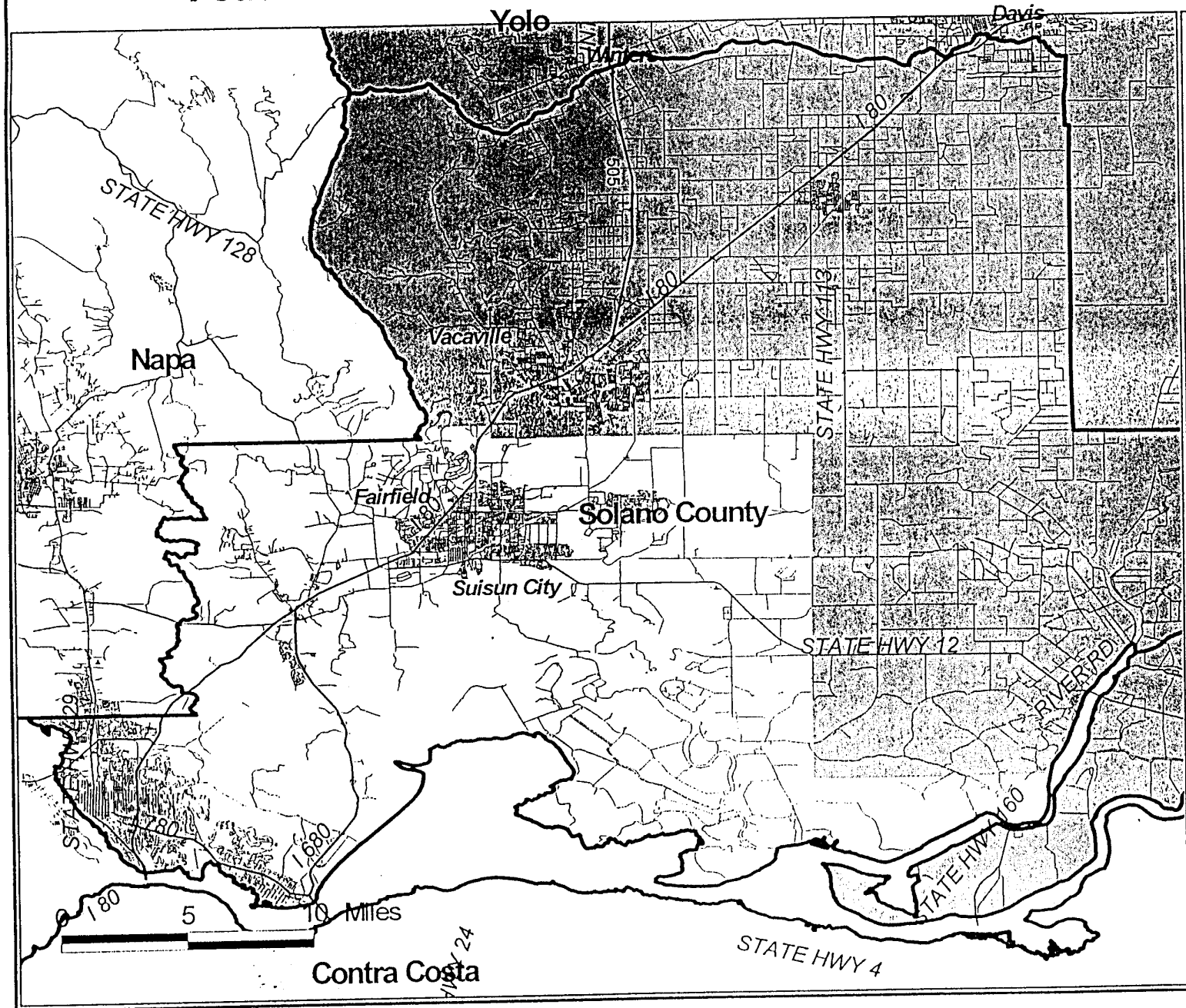
Federal Reformulated Gasoline Area- Solano County Portion



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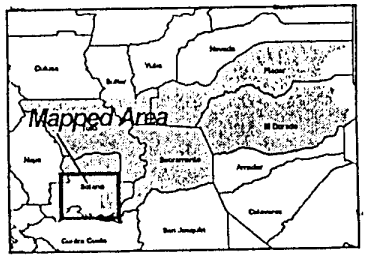
Federal RFG Area
County Boundaries



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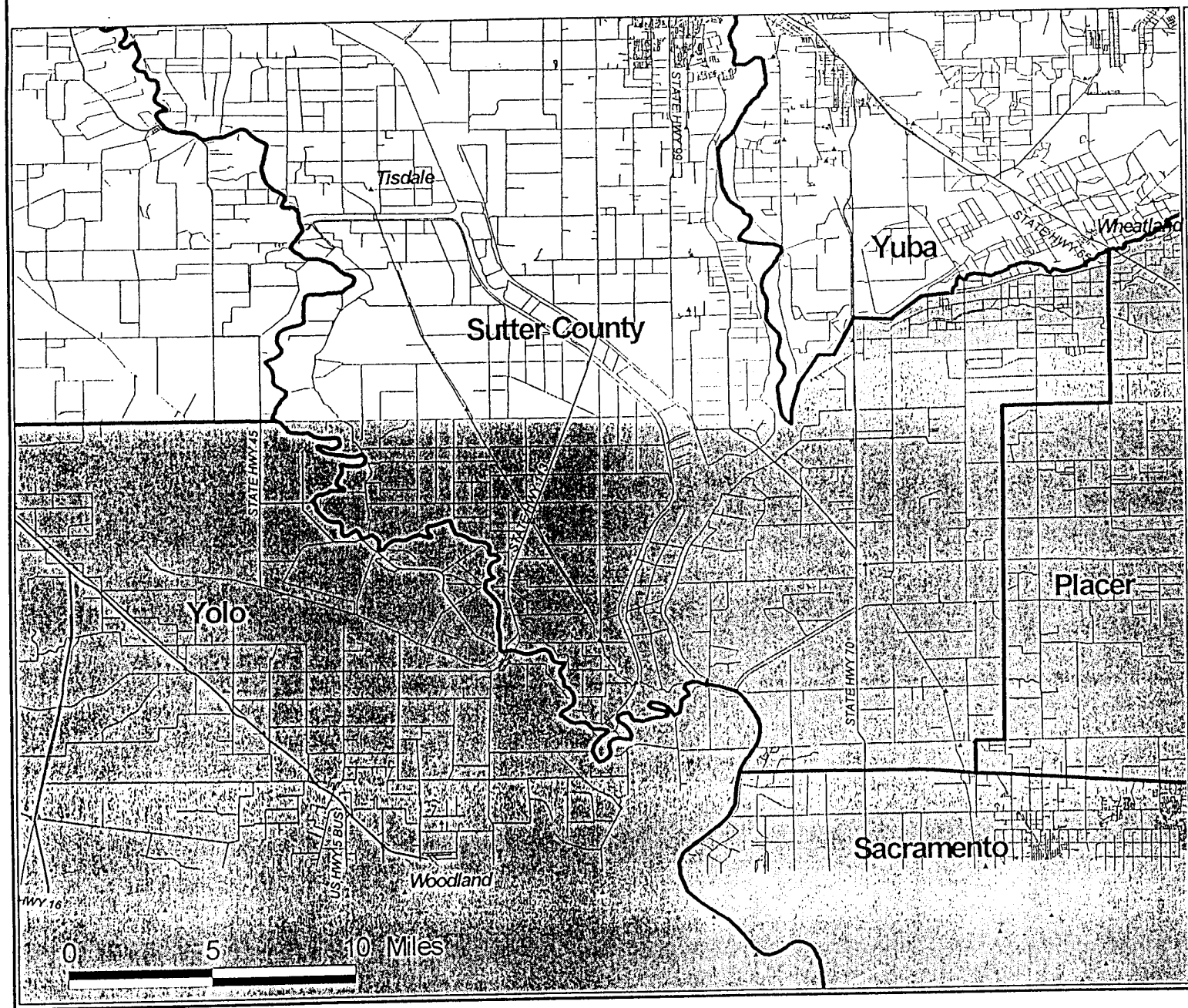
Federal Reformulated Gasoline Area- Sutter County Portion



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Federal RFG Area
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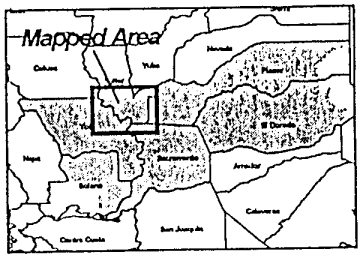

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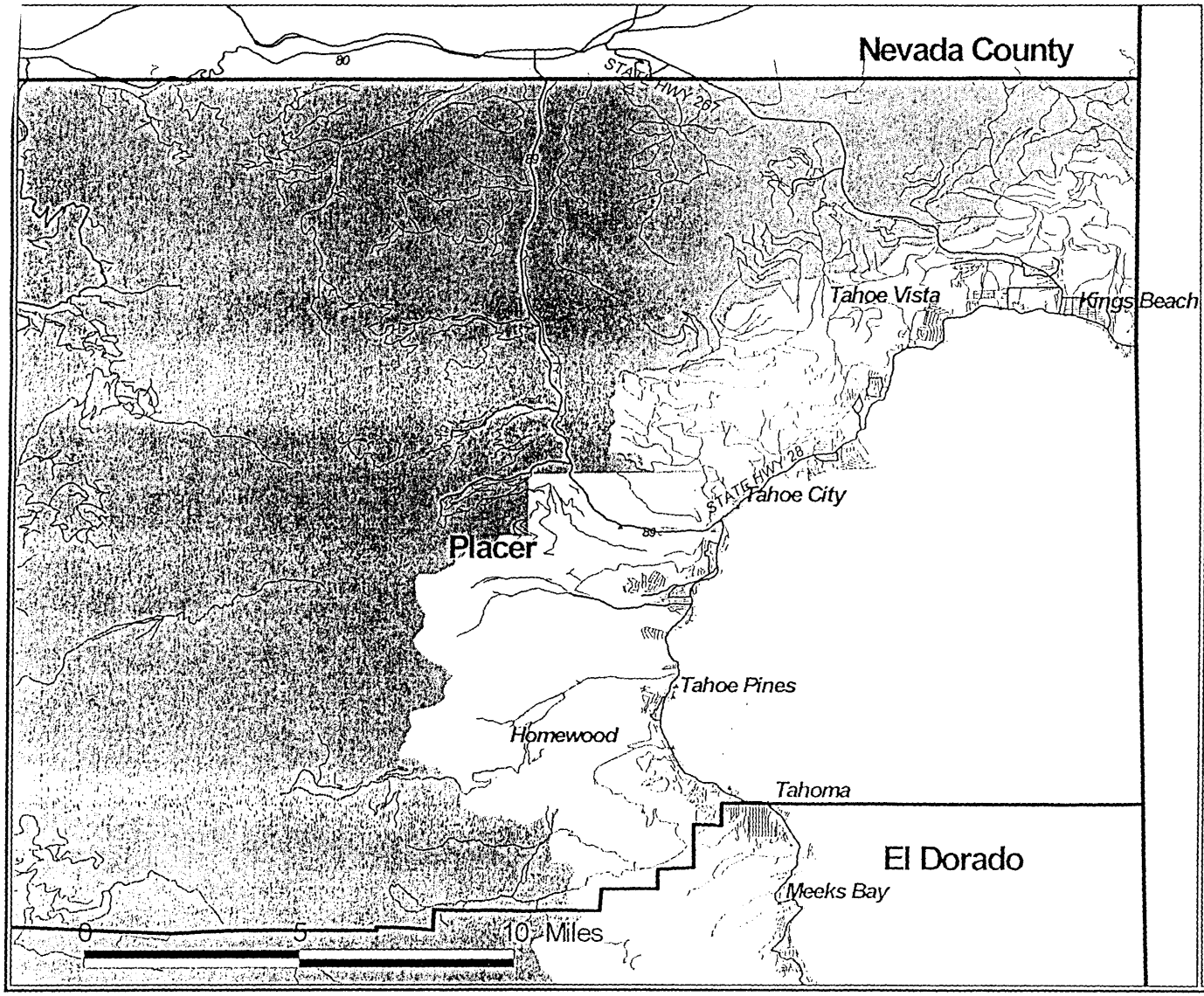
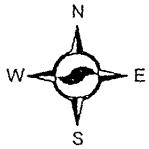
Federal Reformulated Gasoline Area- Placer Co.





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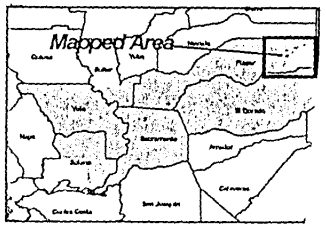
Federal RFG Area

County Boundaries



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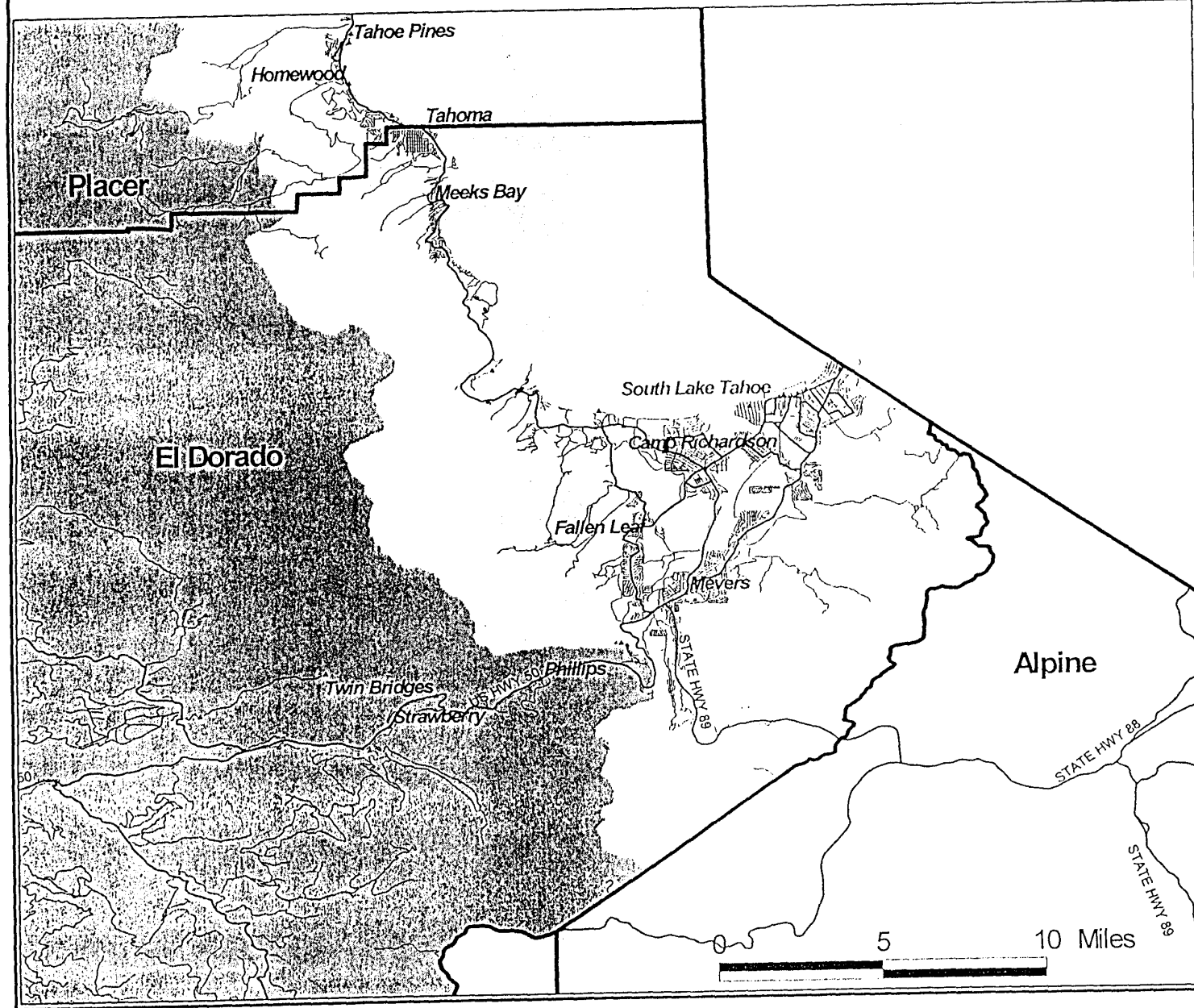
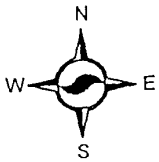
Federal Reformulated Gasoline Area- El Dorado County Portion





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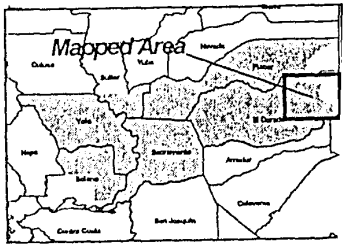
Federal RFG Area

County Boundaries



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