APPENDIX B

EXECUTIVE ORDER D-5-99

EXECUTIVE DEPARTMENT

STATE OF CALIFORNIA

EXECUTIVE ORDER D-5-99

WHEREAS, the University of California prepared a comprehensive report on the "Health and Environmental Assessment of Methyl Tertiary-Butyl Ether (MTBE)" which has been peer reviewed by the Agency for Toxic Substances and Disease Registry and the Unites States Geological Survey and other nationally recognized experts;

WHEREAS, the University of California report was widely available for public review and written comment, including hearings in northern and southern California to receive public testimony;

WHEREAS, the findings and recommendations of the U.C. report, public testimony, and regulatory agencies are that, while MTBE has provided California with clean air benefits, because of leaking underground fuel storage tanks MTBE poses an environmental threat to groundwater and drinking water;

NOW, THEREFORE, I, GRAY DAVIS, Governor of the State of California, do hereby find that "on balance, there is significant risk to the environment from using MTBE in gasoline in California" and, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. The Secretary for Environmental Protection shall convene a task force consisting of the California Air Resources Board, State Water Resources Control Board, Office of Environmental Health Hazard Assessment, California Energy Commission and the Department of Health Services for the purpose of implementing this Order.

2. On behalf of the State of California, the California Air Resources Board shall make a formal request to the Administrator of the U.S. Environmental Protection Agency for an immediate waiver for California cleaner burning gasoline from the federal Clean Air Act requirement for oxygen content in reformulated gasoline.

3. The California Environmental Protection Agency shall work with Senator Feinstein and the California Congressional Delegation to gain passage of Senate Bill 645. This legislation would grant authority to the Administrator of the U.S. Environmental Protection Agency to permanently waive the Clean Air Act requirements for oxygen content in reformulated gasoline to states such as California that have alternative gasoline programs that achieve equivalent air quality benefits.

4. The California Energy Commission (CEC), in consultation with the California Air Resources Board, shall develop a timetable by July 1, 1999 for the removal of MTBE from gasoline at the earliest possible date, but not later than December 31, 2002. The timetable will be reflective of the CEC studies and should ensure adequate supply and availability of gasoline for California consumers.

5. The California Air Resources Board shall evaluate the necessity for wintertime oxygenated gasoline in the Lake Tahoe air basin. The Air Resources Board and the California Energy Commission shall work with the petroleum industry to supply MTBE-free California-compliant gasoline year around to Lake Tahoe region at the earliest possible date.

6. By December 1999, the California Air Resources Board shall adopt California Phase 3 Reformulated Gasoline (CaRFG3) regulations that will provide additional flexibility in lowering or removing the oxygen content requirement and maintain current emissions and air quality benefits and allow compliance with the State Implementation Plan (SIP).

7. In order that consumers can make an informed choice on the type of gasoline they purchase, I am directing the California Air Resources Board to develop regulations that would require prominent identification at the pump of gasoline containing MTBE.

8. The State Water Resources Control Board (SWRCB), in consultation with the Department of Water Resources and the Department of Health Services (DHS), shall expeditiously prioritize groundwater recharge areas and aquifers that are most vulnerable to contamination by MTBE and prioritize resources towards protection and cleanup . The SWRCB, in consultation with DHS, shall develop a clear set of guidelines for the investigation and cleanup of MTBE in groundwater at these sites.

9. The State Water Resources Control Board shall seek legislation to extend the sunset date of the Underground Storage Tank Cleanup Fund to December 31, 2010. The proposed legislation would increase the reimbursable limits for MTBE groundwater cleanups from $1 million to $1.5 million.

10. The California Air Resources Board and the State Water Resources Control Board shall conduct an environmental fate and transport analysis of ethanol in air, surface water, and groundwater. The Office of Environmental Health Hazard Assessment shall prepare an analysis of the health risks of ethanol in gasoline, the products of incomplete combustion of ethanol in gasoline, and any resulting secondary transformation products. These reports are to be peer reviewed and presented to the Environmental Policy Council by December 31, 1999 for its consideration.

11. The California Energy Commission (CEC) shall evaluate by December 31, 1999 and report to the Governor and the Secretary for Environmental Protection the potential for development of a California waste-based or other biomass ethanol industry. CEC shall evaluate what steps, if any, would be appropriate to foster waste-based or other biomass ethanol development in California should ethanol be found to be an acceptable substitute for MTBE.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 25th day of March 1999.

Gray Davis

Governor of California

ATTEST:

Secretary of State