APPENDIX D

EXECUTIVE ORDER D-52-02

Executive Order D-52-02
by the
Governor of the State of California

WHEREAS, Executive Order D-5-99, issued March 26, 1999, found that, "on balance," use of MTBE posed a significant risk to California's environment. The State Energy Resource Conservation and Development Commission (Energy Commission) and the Air Resources Board (Board) were directed to develop a timetable for removing MTBE from gasoline at the earliest possible date, no later than December 31, 2002. The Board was directed to adopt regulations as needed to implement the Executive Order; and

WHEREAS, on December 9, 1999, the Board adopted regulations prohibiting the sale of gasoline containing MTBE in California after December 31, 2002; and

WHEREAS, Senate Bill 989 (Sher) of 1999 requires the Energy Commission to develop a timetable for removal of MTBE from gasoline "at the earliest possible date" that will still ensure adequate supply and availability of gasoline. (Health & Saf. Code, Section 43013.1.); and

WHEREAS, in order to comply with the federal requirements and also eliminate use of MTBE, California would need to import up to 900 million gallons of ethanol per year; and

WHEREAS, the current production, transportation and distribution of ethanol is insufficient to allow California to meet federal requirements and eliminate use of MTBE on January 1, 2003; and

WHEREAS, on June 12, 2001, the U.S. Environmental Protection Agency denied California's request for a waiver of the federal oxygen content requirement. As a result, if use of MTBE is prohibited January 1, 2003, California's motorists will face severe shortages of gasoline, resulting in substantial price increases; and

WHEREAS, strengthened underground storage tank requirements and enforcement have significantly decreased the volume and rate of MTBE discharges since Executive Order D-5-99 was issued in March of 1999;

NOW, THEREFORE, I, GRAY DAVIS, Governor of the State of California, 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:

I FIND that it is not possible to eliminate use of MTBE on January 1, 2003, without significantly risking disruption of the availability of gasoline in California. This would substantially increase prices, harm California's economy and impose an unjustified burden upon our motorists.

IT IS ORDERED that by July 31, 2002, the board shall take the necessary actions to postpone for one year the prohibitions of the use of MTBE and other specified oxygenates in California gasoline, and the related requirements for California Phase 3 reformulated gasoline.

IT IS FURTHER ORDERED that the Board and Commission shall work with the petroleum industry to ensure that MTBE-free gasoline meeting California standards continues to be supplied to the Lake Tahoe region and any other areas of California currently receiving MTBE-free gasoline.

IT IS FURTHER ORDERED that the State Water Resources Control Board and the Department of Health Services shall work with California drinking water providers to ensure that the providers continue to take all appropriate measures to prevent discharge of MTBE into surface water reservoirs.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this the fourteenth day of March 2002.

_____/signed/_____
Gray Davis
Governor of California