Congress of the United States

Washington, DC 20515

April 1, 2004

The President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

Yesterday the press reported that the Administration is looking at possible short-term measures to address record-high U.S. gasoline prices.[1] We are writing to bring to your attention an important step you could take immediately to reduce exorbitant gasoline prices in California. By granting Governor Schwarzenegger's request for a waiver of the federal Clean Air Act's two percent oxygenate requirement for California, you could take action today to reduce gasoline prices at the pump for all Californians.

The average gasoline price in California is firmly above $2 a gallon, far above the record prices throughout the rest of the country. That is why fifty-two members of the California delegation, on a bipartisan basis, recently wrote to EPA Administrator Leavitt urging his approval of the waiver request.[2] Waiving the oxygenate requirement in California is a common-sense measure that would reduce gasoline prices and improve air quality.

Since the beginning of this year, the U.S. EPA has provided relief to both New Hampshire and Arizona from the Clean Air Act's oxygenate requirements.[3] This is an important step that provides these states with flexibility that could reduce gasoline costs for consumers. However, the Environmental Protection Agency (EPA) has not yet granted California's request for similar relief. This failure to act is unsound environmentally and costly to California motorists.

In the five years since California's initial request for a waiver of the oxygenate requirement, the EPA has been presented with exhaustive scientific, technical, and analytical documentation supporting the environmental and economic benefits to California that the waiver

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[1] *Bush Admin Considering Short-Term Fixes for High Gasoline Prices – Energy Dept*, Reuters (Mar. 31, 2004).

[2] Letter from Reps. Cox, Waxman et al to Michael O. Leavitt, Administrator, U.S. EPA (dated February 24, 2004, transmitted March 18, 2004).

[3] EPA Press Release, "EPA approves changes to Arizona's cleaner burning gasoline program" (Jan. 26, 2004)(online at http://yosemite.epa.gov/r9/r9press.nsf/7f3f954af9cce39b882563fd0063a09c/ab2ceb85b1dd17e888256e270078e280?OpenDocument) ; EPA Press Release, "EPA Proposes Approval of New Hampshire Fuel Requirements That Will Preserve Air Quality Benefits of Federal Reformulated Gasoline Without Oxygenate Mandate" (January 22, 2003)(online at http://www.epa.gov/region1/pr/2004/jan/040108.html).

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would provide. Recognizing the strength of this case, the Clinton EPA recommended partial approval of California's request as one of its final acts.

Yet despite this record, your Administration has refused to provide any relief to California. The Ninth Circuit Court of Appeals struck down EPA's initial decision to deny the waiver on the grounds that it failed to adequately consider California's request. The issue is now pending for reconsideration before the agency.

The continued failure to grant California's waiver is raising California's gasoline prices. Because of the risks of MTBE to groundwater, California has banned the use of MTBE in fuel. This means that refiners have to use ethanol to comply with the oxygenate requirement. This requires them to modify the state's gasoline distribution infrastructure to account for the handling requirements of ethanol.

This situation significantly increases the costs of gasoline. Unless the EPA grants California's waiver, California will be forced to use far more ethanol than necessary and must guarantee that ethanol is in every gallon of gasoline for major portions of the state. This causes the costs to be needlessly high and has an adverse impact on air quality. For example, the trade publication *Oil and Gas Journal* recently reported on the connection between ethanol and high gasoline costs at the pump:

> In a new study, New York-based Petroleum Industry Research Foundation Inc., concluded that new gasoline formulations created by government fiat to favor ethanol over methyl tertiary butyl ether are already coming in at a much higher cost than expected.
>
> As refiners in New York began reducing stocks of MTBE-based gasoline in preparation for MTBE bans this year, total gasoline stocks declined, and the differential between New York reformulated gasoline (RFG) and comparable RFG blends elsewhere doubled during May-November 2003 to 18-20¢/gal. This compares with the US Department of Energy's estimate of the long-run difference for switching to ethanol RFG from MTBE RFG being only 1-5¢/gal. Given the added logistical hurdles for transporting ethanol, the effects of any outages are likely to be magnified greatly.[4]

Not only is the oxygenate provision raising fuel prices, it is also harming the environment. Our state's serious air pollution problems require that we take every practical step to reduce air pollution. Unfortunately, the oxygenate requirement takes us in the wrong direction. According to the California Air Resources Board using ethanol to achieve the two percent oxygenate requirement would also prevent or interfere with California's attainment of the Federal ozone and particulate matter standards.

Mr. President, you can act today to reduce gasoline prices in California. California can improve its air quality, address the threat MTBE poses to groundwater and surface water, and

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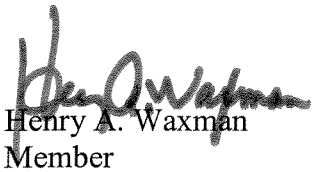
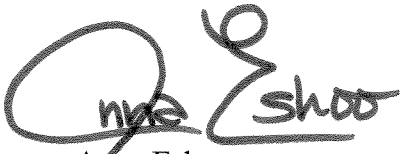
[4] *High Pump Prices*, Oil and Gas Journal (Mar. 8, 2004).

alleviate the excessive prices for gasoline, but the oxygenate waiver is crucial to this effort. We urge you to act swiftly on this matter and grant California's request for relief.

Sincerely,



Henry A. Waxman
Member
Energy & Commerce Committee



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