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June 14, 2001

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The Honorable Christine Todd Whitman
Administrator

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Whitman:

This week, the Bush Administration denied California's request for a waiver from the oxygenate requirement under the federal reformulated gasoline (RFG) program. You explained that the waiver was inappropriate because "there is no clear evidence that a waiver will help California to reduce harmful levels of air pollutants."¹

I was surprised by your statement. It not only appears to be directly contradicted by conclusions EPA experts reached earlier this year, but by your own recommendation to President Bush in support of the waiver. I noted your views in a May 3, 2001, letter I sent to President Bush, and I'm enclosing a copy of that letter for your convenience.

I am also attaching to this letter a recommendation to grant California a waiver from the 2% oxygenate requirement that your agency sent to the White House in January 2001 at the end of the Clinton Administration. This recommendation was the result of a lengthy review by EPA's technical and professional staff.

In the recommendation, EPA's experts reached exactly the opposite conclusion that you announced earlier this week. EPA's experts found in January that denying the waiver would interfere with California's efforts to meet the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter (PM). Specifically, the recommendation states:

We conclude that compliance with the 2.0 weight percent oxygen content requirement for RFG would interfere with attainment of the NAAQS for ozone and PM in the RFG areas in the State.

¹EPA Press Release (June 12, 2001).

The EPA recommendation would have granted California "a waiver by allowing a year-round average oxygen level of 1.0 weight percent, through the end of 2004." The 1% oxygenate standard recommended by EPA is the level of oxygenate that EPA estimated would remain in the California fuel supply in the absence of any federal oxygenate requirement. EPA stated that this waiver "will enable California to achieve even greater reductions in NOx emissions." Additionally, according to EPA's recommendation, the waiver "will have an effect on emissions other than NOx, and these overall effects support the conclusion that a partial waiver would aid California in attaining the ozone and particulate matter NAAQS."

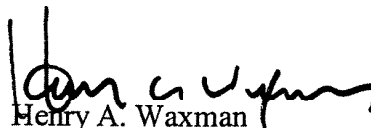
EPA further concluded that the waiver would allow "the flexibility for the state to achieve the greatest additional NOx reductions possible."

Starting in 2003, California has banned the use of methyl tertiary butyl ether (MTBE) in gasoline because MTBE contaminates drinking water wells. Because California's waiver request was denied, California will be forced to use the only practical alternative, ethanol. As EPA found in the recommendation, ethanol use will not reduce air pollution. But it is more expensive than MTBE and is in short supply. In fact, industry officials estimate that it will take about one-third of current U.S. production of ethanol for California to meet the federal oxygenate requirements. Shortages of ethanol could cause gas prices to rise by 50 cents a gallon, according to California Governor Gray Davis.

What's more, the decision to deny the waiver will cause "balkanization" of the fuel supply in California, which is completely contradictory to the goals of the Administration's National Energy Policy. Because California will not receive a waiver, oil refiners will have to supply California with at least two different fuels. In areas that are classified as severe or extreme nonattainment areas under the Clean Air Act, like Los Angeles, oil refineries will have to add ethanol to meet the 2% oxygenate requirements of the Clean Air Act. But in other parts of the state, oil refineries only have to meet California's clean fuel standards, which do not require the addition of ethanol. Moreover, gasoline with ethanol must be segregated from nonoxygenated gasoline throughout the distribution process, and large quantities of ethanol will have to be imported from halfway across the country.

In light of this information, I am completely baffled by the Administration's decision to deny California's request. I am requesting that you immediately provide me with the new information developed since January 2001 that forms the basis for the Administration's reversal on this important issue. Please provide this information no later than June 21, 2001.

Sincerely,



Henry A. Waxman
Ranking Minority Member