MINUTE ITEM
This Calendar Item No. 74 was approved as Minute Item No. 74 by the California State Lands Commission by a vote of 3 to 0 at its 4/13/99 meeting.

CALENDAR ITEM
74

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04/13/99
P. Thayer
J. Rump
M. Meier

CONSIDERATION OF PROGRAM FOR MTBE INSPECTION AND COMPLIANCE OF MARINAS UNDER CALIFORNIA STATE LANDS COMMISSION JURISDICTION

STAFF PROPOSAL:

In response to an inquiry from Lt. Governor Bustamante, Chair of the California State Lands Commission, staff proposes that an investigation and review be undertaken to determine whether any fueling docks or other facilities on or adjacent to State sovereign lands may be sources from which methyl-tertiary-butyl-ether (MTBE) is being released into waterways.

BACKGROUND:

MTBE is an oxygenate additive designed to make gasoline burn more cleanly and to reduce air pollution. It was introduced in 1996 in response to federal air quality requirements that oxygenated gasoline be used in those parts of California experiencing the worst air quality. Because of refining limitations, it is generally used throughout the state and, in most urban areas, comprises about 11% of each gallon of gasoline.

Recent studies have concluded, however, that MTBE, if ingested, is toxic to some degree. Federal research shows that the compound causes tumors in rats and may do so in humans. While the exact level of toxicity is in dispute, the additive does have a taste and odor which is easily detectable when present in even small quantities in drinking water.

As a consequence of leaking underground storage tanks and associated pipes and pumps, MTBE has been found to have contaminated ground and surface water. Unlike other gasoline additives, MTBE is easily soluble in water and does not float on the surface. It has been detected deep in the groundwater, rivers and lakes and cannot be easily removed. The University of California recently released a study commissioned by the State Legislature to evaluate the health and environmental impacts from the additive. It showed that the additive has affected at least 10,000 groundwater sites throughout the state. That same study also concluded that the threat of ground and surface water contamination posed

by the additive outweighs any benefits it may offer for air quality and that other alternatives may be available which provide the same air quality benefits without the same threat to water supplies.

Of particular concern has been the effects of MTBE upon the waters of Lake Tahoe and the region's drinking water supplies. Because of MTBE contamination, the South Lake Tahoe Public Utility District has, since 1997, closed down 13 wells, constituting one-third of its total supply. The additive has also been detected in the waters of the Lake itself.

The Commission has previously looked at the effects of MTBE in another context. On February 27, 1996, the Commission adopted emergency regulations requiring marine terminal operators to undertake immediate inspections of hoses used to transfer gasoline containing MTBE. This action was prompted when the Commission's Marine Facilities Division discovered the additive was causing the interior linings in those hoses to separate and weaken. Had the problem gone undetected, a significant gasoline spill into marine waters would likely have occurred.

On March 25, 1999, Governor Gray Davis issued an order requiring that MTBE be phased out by 2002, although efforts to remove the chemical from water supplies are to begin immediately. He also urged the federal government to waive its requirement that California use oxygenates such as MTBE to cut air-pollution emissions, saying the state can meet federal clean-air rules without using them. The Governor said his review of the University of California study, hearings by state regulators and scientific findings persuaded him that there is, on balance, a significant risk to California's environment associated with the continued use of the additive in gasoline. Regardless of whether MTBE is present, the gasoline and other fuels lost into State waters from these facilities have significant adverse effect on those waters.

As previously noted, one of the primary means by which MTBE enters the State's waters is through leaking fuel tanks and pipelines. At this time, there are numerous fueling docks located on State waterways, all of which have associated tanks, pipelines, and pumps. Many of these are on lands leased from the Commission, and most are used to transfer fuel which contains MTBE.

The extent to which these fueling docks, with their associated tanks and pipelines, may present a water pollution problem cannot be known without further

investigation. Commission staff believes such a review is warranted. The investigation and review would include coordination with other responsible local, state and federal agencies. If actual or potential pollution problems are found, staff could use existing authority to work with facility owners to correct deficiencies

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code, Division 6, (Sections 6001 *e tseq.*)
B. Public Resources Code Sections 8750 through 8760, inclusive

PERMIT STREAMLING ACT DEADLINE:

N/A

IT IS RECOMMENDED THAT THE COMMISSION:

1. DIRECT STAFF TO INVESTIGATE AND REVIEW FUELING DOCKS AND OTHER FACILITIES LOCATED ON STATE SOVEREIGN LANDS TO DETERMINE WHETHER METHYL-TERTIARY-BUTYL-ETHER (MTBE) MAY BE RELEASED FROM ANY OF THOSE FACILITIES INTO THE STATE'S WATERWAYS AND WORK WITH FACILITY OWNERS TO CORRECT ANY DEFICIENCIES FOUND.

2. DIRECT STAFF TO REPORT BACK TO THE COMMISSION WITH THE FINDINGS FROM ITS REVIEW AND WITH RECOMMENDATIONS FOR FURTHER ACTIONS WHICH MAY BE NECESSARY TO PROTECT THE STATE'S WATERS