

October 13, 2000

V.V. Veeder, Q.C., Chair  
Warren Christopher, Esq.  
J. William Rowley, Q.C.  
NAFTA Chapter 11 Arbitration Tribunal  
c/o International Centre for Settlement of Investment Disputes  
Room MC 12-409  
World Bank  
1818 H Street, NW  
Washington, DC 20433

Re: *Arbitration between Methanex Corporation and the United States of America  
under Chapter 11 of the North American Free Trade Agreement*

Dear Messrs. Veeder, Christopher and Rowley:

We are U.S., Mexican and Canadian nongovernmental organizations concerned about the environment and human health, the right of state and local governments to implement legitimate measures to protect these interests, and the right of the public to participate in the resolution of disputes affecting important matters of public concern. We are writing to express our support for the participation of *amici curiae* (friends of the court) in the arbitration proceedings challenging California's phase-out of MTBE as a NAFTA violation. In particular, we urge you to grant the petitions you have received requesting permission to participate in these proceedings, including the petition submitted by Earthjustice Legal Defense Fund, Communities for a Better Environment, the Bluewater Network of Earth Island Institute, and the Center for International Environmental Law.

As you know, this dispute arises out of California's decision to remove MTBE from gasoline because scientific studies led to the conclusion that the chemical posed a significant risk to the state's environment. Claiming that the MTBE phase-out violates the foreign investment provisions of NAFTA's Chapter 11, the Canadian Methanex Corporation has initiated this arbitration proceeding, demanding payment of nearly one billion dollars if California does not remove the MTBE prohibition.

Methanex's challenge raises crucial issues of environmental and health policy, the ability of local, state and national governments to act to protect the fundamental interests of their citizens, and the interaction between international investment rules and domestic laws. As a result, resolution of this case will directly affect the interests of the citizens of the State of California, as well as all citizens of the United States, Mexico and Canada. It is especially important, therefore, that the concerns of these citizens be fully and directly represented during the course of proceedings to resolve Methanex's claims. Allowing the participation of *amici curiae* will help to ensure such representation.

The significance of the legal issues in this case also indicates the need for public participation. Methanex's claim asks the arbitrators to balance the authority of

governments to regulate in the public interest against private property rights. In all three NAFTA countries, this balance implicates constitutional principles. To decide matters of such fundamental importance without the participation of representatives of the public concerns on which the regulation is based would jeopardize the legitimacy of any decision by the arbitrators.

Allowing *amicus* participation would also help counter public concern that this arbitration is undemocratic and unfair because affected citizens are excluded from participating. California's MTBE phase-out is the result of a democratic process in which the public was given opportunities to participate in public hearings and make written submissions concerning the problem of MTBE. Although in this arbitration Methanex is seeking a huge payment that could be a major disincentive for California to maintain the phase-out, the arbitration process has historically been closed to public participation. The threat that this proceeding poses to California's democratically developed and implemented environmental measure makes it especially important that representatives of the public's concerns regarding MTBE be permitted to participate in this arbitration.

For these reasons, we urge you to permit the participation of *amici curiae* in this arbitration and, in particular, to grant the petitions you have already received from nongovernmental organizations seeking permission to participate. Earthjustice Legal Defense Fund, Communities for a Better Environment, the Bluewater Network of Earth Island Institute, and the Center for International Environmental Law have substantial expertise in and longstanding commitment to the removal of MTBE from California's gasoline, the protection of California's environment, and the unrestricted right of local, state and national governments to protect the environment. Because of this experience, the participation of these groups in this arbitration would help to ensure the representation of points of view of serious importance to our groups and institutions, as well as of concerned citizens throughout the United States, Canada and Mexico.

For these reasons, we urge you to grant the requests you have received from nongovernmental organizations seeking permission to participate in these proceedings as *amici curiae*.

Respectfully,

United States

Friends of the Earth, Washington, DC  
American Lands Alliance, Washington, DC  
Defenders of Wildlife, Washington, DC  
World Wildlife Fund, Washington, DC  
Natural Resources Defense Council, Washington, DC  
National Wildlife Federation, Washington, DC  
Sierra Club, San Francisco, California  
Earth Island Institute, San Francisco, California

Global Exchange, San Francisco, California  
Pacific Environment and Resources Center, Oakland, California  
The Brower Fund, San Francisco, California  
The WILD Foundation, Ojai, California  
Silicon Valley Toxics Coalition, San Jose, California  
Women's Cancer Resource Center, Berkeley, California  
Healthy Habitat, Mill Valley, California  
Marin Breast Cancer Watch, San Rafael, California  
Project Underground, Berkeley, California  
California Nurses Association, Oakland, California  
Center for Environmental Health, Oakland, California  
Heal the Bay, Santa Monica, California  
Coalition for Clean Air, Los Angeles, California  
Novato Republican Women, Federated, Novato, California  
Good Neighbors Steering Committee, Benecia, California  
Cook Inlet Keeper, Homer, Alaska  
Alaska Center for the Environment, Anchorage, Alaska  
Alaska Community Action on Toxics, Anchorage, Alaska  
Oxybusters of AZ, Yucca, Arizona  
Citizens for Victor!, Victor, Colorado  
Oxybusters of Connecticut, Manchester, Connecticut  
Grand Calumet Task Force, Whiting, Indiana  
Louisiana Bucket Brigade, [ ], Louisiana  
Coastal Waters Project, Rockland, Maine  
Citizens Against RFG, South Berwick, Maine  
Strategic Counsel on Corporate Accountability, Waverly, Massachusetts  
Toxics Action Center, Boston, Massachusetts  
Environmental Association for Great Lakes Education, Duluth, Minnesota  
Institute for Agriculture and Trade Policy, Minneapolis, Minnesota  
Environmental Association for Great Lakes Education, Duluth, Minnesota  
Cabinet Resource Group, Heron, Montana  
Park County Environmental Council, Livingston, Montana  
Oxybusters of New Jersey, Maple Shade, New Jersey  
Forest Guardians, Santa Fe, New Mexico  
Border Ecology Project, Santa Fe, New Mexico  
Oxybusters of New York, Liberty, New York  
Great Lakes United, Buffalo, New York  
Citizens' Environmental Coalition, Albany, New York  
Environmental Background Information Center, New York, New York  
Southern Appalachian Biodiversity Project, Asheville, North Carolina  
Protect All Children's Environment, Marion, North Carolina  
Clean Water Fund of North Carolina, Wilmington, North Carolina  
Environmental Educators, Chapel Hill, North Carolina  
Anson County Citizens Against Chemical Toxins in Underground Storage (CACTUS),  
Wadesboro, North Carolina  
Oregon Center for Environmental Health, Portland, Oregon

Cascadia Forest Alliance, Portland, Oregon  
Coast Range Association, Corvallis, Oregon  
Oxybusters of PA, Philadelphia, Pennsylvania  
Texas Center for Policy Studies, Austin, Texas  
Grandparents of East Harris County, Kingwood, Texas  
Oxybusters of Texas, Houston, Texas  
Kettle Range Conservation Group, Spokane, Washington  
Northwest Ecosystem Alliance, Bellingham, Washington  
Waste Action Project, Seattle, Washington  
Concerned Citizens' Coalition, Spencer, West Virginia  
Northwoods Conservation Association, Manitowish Waters, Wisconsin  
Lake Superior Greens, Superior, Wisconsin

#### Canada

Sierra Legal Defense Fund, Vancouver, British Columbia  
West Coast Environmental Law Association, Vancouver, British Columbia  
Reach for Unbleached, Whaletown, British Columbia  
Queens Bay Residents Association, Nelson, BC  
Taku Wilderness Association, Atlin, British Columbia  
Toxics Watch Society of Alberta, Edmonton, Alberta  
People Against Nuclear Energy and For a new Perspective on Energy (PANE), Moncton,  
New Brunswick  
Environmental Law Centre, Edmonton, Alberta  
Toronto Environmental Alliance, Toronto, Ontario  
Environmental Mining Council of BC, Victoria, British Columbia  
Friends of the West Country, Rocky Mountain House, Alberta  
University of New Brunswick/St. Thomas University Environmental Society,  
Fredericton, New Brunswick  
VieVerte, Université de Moncton, New Brunswick  
Transboundary Watershed Alliance, Atlin, British Columbia  
Citizens' Council on Corporate Issues, Vancouver, British Columbia

#### Mexico

Centro Mexicano de Derecho Ambiental, Mexico City, DF  
Centro de Derecho Ambiental e Integración Económica del Sur, A.C. (DASSUR),  
Xalapa, Veracruz  
Comisión de Solidaridad y Defensa de los derechos Humanos, A.C. (COSYDDHAC),  
Chihuahua, Chihuahua  
Ciudadanía Lagunera por los Derechos Humanos, A.C., Torreón, Coahuila  
Emisiones: espacio virtual, Mexico City, DF