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COMMUNITIES FOR A BETTER ENVIRONMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA COUNTY

11 COMMUNITIES FOR A BETTER
12 ENVIRONMENT, ASIAN PACIFIC
13 ENVIRONMENTAL NETWORK, WEST
14 COUNTY TOXICS COALITION, all California
Nonprofit Corporations,

Petitioners and Plaintiffs,

v.

16 CITY OF RICHMOND; and DOES 1 through
17 10, inclusive,

18 Respondents and Defendants.

19
20 CHEVRON PRODUCTS COMPANY, a
21 California Corporation, CHEVRON
22 CORPORATION, a Delaware Corporation;
DOES 1 through 20, inclusive,

Real Parties in Interest and Defendants.

FILED

2014 SEP 30 P 12:50

STEPHEN K. AUSTIN
CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CA

BY: _____ DEPUTY CLERK

D. WEBER

Case No. N08-1429

CEQA CASE

**OBJECTION TO THE SUPPLEMENTAL
RETURN TO THE PEREMPTORY WRIT
OF MANDATE**

Dept.: 33

Judge: Hon. Steven K. Austin

Action Filed: September 4, 2008

1 On August 15, 2014, Respondent and Defendant City of Richmond (the "City"), filed with
2 this Court a Supplemental Return to the Peremptory Writ of Mandate and Request For Schedule To
3 Notice Objections ("Supplemental Return".) Petitioner Communities for a Better Environment
4 ("CBE") timely provides this objection to the Supplemental Return.

5 I. INTRODUCTION

6 On September 4, 2008, CBE filed a petition for writ of mandate and complaint for injunctive
7 relief requesting the Court to set aside the Richmond City Council's certification of the
8 Environmental Impact Report for the Hydrogen Renewal Project at the Chevron Richmond Refinery
9 ("HRP EIR"). CBE argued, and the Court ultimately agreed, that the HRP EIR, by failing to
10 adequately disclose a switch to a heavier oil feedstock, suffered a misleading and inadequate project
11 description and also improperly deferred mitigation of greenhouse gas ("GHG") emissions. The
12 Court issued the Peremptory Writ of Mandate that is the subject of this motion, setting aside the
13 prior approvals of the HRP EIR, prohibiting the City of Richmond from taking any action in reliance
14 on the HRP EIR approvals, and enjoining Chevron from Project-related activity until approval of an
15 EIR that complies with both the requirements of CEQA and the decision of the California Court of
16 Appeal. (*Communities for a Better Environment et al. v. City of Richmond* (2010) 184 Cal. App. 4th
17 70.)

18 In March 2014, the City released the Revised Draft Environmental Impact Report for the
19 Chevron Modernization Project ("Project"). The Modernization Project meets several of the same
20 project objectives as the prior HRP. On July 9, 2014, the City of Richmond Planning Commission
21 certified the Project EIR, also adding critical conditions of use in order to mitigate significant
22 impacts of the Project under the California Environmental Quality Act ("CEQA"). Chevron
23 appealed several of these conditions of use. On July 29, 2014, the Richmond City Council certified
24 the Project EIR without several of the Planning Commission's approved conditions, but included
25 "Alternative 11" as detailed below, deferring approval of the hydrogen export portion of the Project.
26 While CBE believes that the conditions of use adopted by the Planning Commission should be part
27 of the certified Project EIR, it is vital that this Court not dissolve the Peremptory Writ of Mandate
28 without clarifying the future of the hydrogen export portion of the Project.


1 **II. OBJECTION**

2 On June 20, 2014, in response to the community's concerns raised during the CEQA public
3 comment period for the Project, the California Attorney General submitted a second letter¹ to the
4 City of Richmond, advocating for adoption of the environmentally superior alternative to the Project
5 as described in section 6.5.11 of the Project EIR ("Alternative 11"). The City of Richmond certified
6 the EIR to include Alternative 11. Alternative 11 defers approval of the hydrogen export portion of
7 the Project, the same Praxair hydrogen pipeline project discussed and found by the Court to not
8 constitute a "piecemealed" part of this Project. In so doing, Alternative 11 commits the Chevron
9 Richmond Refinery ("Refinery") to achieve no physical increase in GHG emissions and no net
10 increase in other pollutants or public health risks from pollutants. The Project EIR also establishes,
11 however, the necessity of additional measures to mitigate emissions from this future hydrogen export
12 project; it will result in actual physical increases in GHG emissions and other pollutants/co-
13 pollutants at the Refinery. The Court should resolve this discrepancy and, at a minimum, clarify
14 how the City of Richmond should conduct its future environmental review of the hydrogen export
15 project, and how mitigation measures either adopted or rejected in this Project, affect that review.

16 The uncertainty over future environmental review of the hydrogen export project could
17 implicate significant and unmitigated air emissions at the Refinery. Absent the Court's clarification,
18 CBE objects to dissolution of the Peremptory Writ of Mandate.

19
20 DATED: September 30, 2014

Respectfully Submitted,

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22 
23 _____
Roger Lin

Attorney for Petitioner and Plaintiff

COMMUNITIES FOR A BETTER ENVIRONMENT

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27 _____
28 ¹ On June 6, 2014, the Attorney General submitted its first letter to the City of Richmond detailing several concerns
shared by CBE regarding the Revised Draft EIR for the Project.

1 **PROOF OF SERVICE**

2 I am employed in the County of Alameda, State of California. I am over the age of 18 years and not
3 a party to the within action; my business address is 1904 Franklin Street, Suite 600, Oakland,
4 California 94612.

5 On September 30, 2014, I served the document entitled:

6 **OBJECTION TO THE SUPPLEMENTAL RETURN TO THE PEREMPTORY WRIT OF**
7 **MANDATE**

8 By transmitting via facsimile the document(s) listed above to the fax number(s) set
9 forth below on this date before 5:00 p.m.

10 XX By placing a true and correct copy(ies) thereof in a sealed envelope with postage
11 affixed hereon fully prepaid, in the United States mail at Oakland, California,
12 addressed as set forth below.

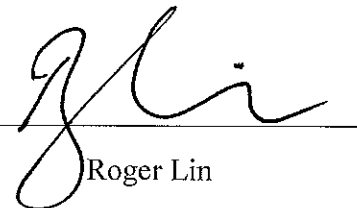
13 By personally delivering the document(s) listed above at the addresses set forth
14 below.

15 Bruce Reed Goodmiller Jennifer Hernandez
16 City Attorney Holland and Knight LLP
450 Civic Center Plaza 50 California Street, 28th Floor
17 Richmond, CA 94804 San Francisco, CA 94111
Attorneys for Respondent and Defendant, City of Richmond

18 Barbara J. Schussman
19 Perkins Coie LLP
20 4 Embarcadero Center, Suite 2400
San Francisco, CA 94111
21 Attorney for Real Party in Interest, Chevron Products Company and Chevron Corporation.

22 I declare under penalty of perjury, pursuant to the laws of the State of California, that the above is
23 true and correct.

24 Executed on September 30, 2014 at Oakland, California.

25
26 
27 Roger Lin
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