

**Chevron Hydrogen and Energy Renewal Project
Proposed CUP Conditions to Protect the Public Health, Safety and Welfare**

Mitigation	How this protects the public health, safety and welfare of the residents of the City of Richmond	Cost Allocation
<p>Funding for Brookside Clinic in Richmond. Enhance basic health services to community, including prevention and treatment of asthma/allergies,, childhood obesity, chronic respiratory diseases and exposure to lead and mercury. Fund capital and maintenance costs, outreach and incentives and enrollment of children in Richmond schools in State Healthy Kids Insurance Program.</p>	<ul style="list-style-type: none"> • At 1.2 Million Pounds, Chevron is Region's <u>Third Largest Polluter</u> (<i>West County Times</i>, 2/22/2008). Health programs will help mitigate the effects of air and water pollution. • Chevron emissions of <u>VOC will increase by 26.7 tons annually and PM by 12.2 tons annually</u> (DEIR, Table 4.3-3). Health programs will help mitigate the effects of increases in some toxic emissions. • Asthma rates in West County exceed In Contra Costa County, about 15% of children 0-14 years have asthma. The hospitalization rate for children with asthma who live in Richmond and San Pablo is much higher than the state average. From 2001 to 2003, <u>the percentage of African American children diagnosed with asthma in Contra Costa County increased from 14% to 26%</u>. In Contra Costa, the hospitalization rate for African American children with asthma is almost five times that of white children... <u>Evidence indicates that ambient air pollution, such as particulate matter and ozone, precipitate asthma attacks among persons with the disease</u> (Contra Costa Health Service, <i>Planning Communities: What Health Has To Do With It</i>. Health programs will help mitigate the effects of air pollution. • The effects of airborne toxins are also evident across the bay from San Francisco in Richmond, Calif., home to the Chevron Texaco refinery. <u>The plant spews a deadly array of particles, such as dioxins, on the largely African American, Southeast Asian and Latino communities</u> located near it. Since 1999, toxic emissions in Richmond have increased 20%, and most of the increase can be attributed to the Chevron refinery, the largest polluter in the city, according to the Environmental Protection Agency Toxic Release Inventory for 2002. The Chevron 	<p>\$5,000,000</p>

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	<p>facility has registered hundreds of accidents, including major fires, spills, leaks, explosions, toxic gas releases, flaring and air contaminations. These operations have contributed to severe injuries and illnesses, ranging from asthma to cancer, in the adjacent community (http://www.epa.gov/aging/agenda/asa_report.pdf). Health programs will help mitigate the effects of air pollution.</p>	
<p>Crime Reduction: Provide funding to increase the number of sworn police officers, increase helicopter time, expand programs of the Office of Neighborhood Safety, develop and implement strategic and targeted caseload for a prevention and intervention model for high risk youth for truancy prevention, first-time offenders and re-entry.</p>	<ul style="list-style-type: none"> The reality and the perception of unsafe streets discourage walking and bicycling as a transportation choice, particularly for children to and from school and after-school activities. <u>This increases VMT and encourages driving, contributing to both air pollution and greenhouse gas emissions.</u> This, in turn, contributes to childhood obesity and unhealthy life styles. The reality and perception of petty crime discourages grocery stores from relocating in disadvantaged neighborhoods, severely limiting the readily accessible supply of healthy foods. Crime reduction will result in safer streets, more walking and biking, particularly by young people, healthier lifestyles, <u>fewer VMT</u> and lowered rates of asthma and childhood obesity. 	\$20,000,000
<p>Education and Job Training: Pre-apprenticeship program funding and Youth Works funding with emphasis on “green” jobs, college scholarships for three high schools, tutorial funding for Graduate Exit Exam at three high schools, coordinated by city manager and Office of Neighborhood Safety in collaboration with other public agencies.</p>	<ul style="list-style-type: none"> In California, <u>40% of greenhouse gases come from motor vehicle transportation, and 30% comes from privately-owned automobiles.</u> Any significant reduction <u>has to reduce VMT.</u> Richmond has a net imbalance of housing over jobs, resulting in substantial commuting, primarily by automobile. Improving the quality and quantity of the labor pool by providing jobs training and education incentives for youth will increase local economic development, increase local employment and decrease the need to commute, resulting in a <u>decrease in VMT.</u> Unsafe streets and the perception thereof discourages walking and bicycling as a transportation choice, particularly for children, particularly including to and from school and after-school activities. <u>This increases VMT and encourages driving,</u> 	\$5,000,000

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	<p><u>contributing to both air pollution and greenhouse gas emissions.</u> This, in turn, contributes to childhood obesity and unhealthy life styles. Crime reduction will result in safer streets, more walking and biking, particularly by young people, healthier lifestyles, <u>fewer VMT</u> and lowered rates of asthma and childhood obesity.</p>	
<p>Community Non-Profits: Capacity building for community service non-profits, grants and endowments, including \$2 million matching funds for rehabilitation of Maritime Center for Richmond Children’s Foundation College Prep Charter School</p>	<ul style="list-style-type: none"> Community non-profits bear the laboring oar for addressing the root causes of crime, joblessness, low educational performance poor health and poverty. Augmenting the resources and increasing the capacity of the non-profits will improve the quality of life and health in Richmond, produce a more walkable community, reduce the jobs-housing imbalance, lower the <u>VMT and reduce Greenhouse gases.</u> 	<p>\$7,000,000</p>
<p>Public Safety: Capital contribution to future fire station along Richmond Parkway, updating fire department hazardous equipment and clothing, training for disaster preparedness</p>	<ul style="list-style-type: none"> In addition to chronic health risks from the Chevron refinery and its ancillary industries (General Chemical), there is the periodic risk of events that trigger the sounding of sirens, shelter in place orders and ultimately, injuries. <u>Even without injuries, shelter in place events disrupt the lives of thousands, impacting schools, workplaces and transportation.</u> The societal cost of a shelter in place alert can easily be in the hundreds of thousands of dollars in lost productivity. In the worst events during the past two decades, thousands of people have actually suffered illness or injuries. A high probability of future incidents will remain as long as Richmond is a refinery town. The prospects of minimizing the effects of incidents, effectively managing incidents, reducing the “shelter in place” duration and generally mitigating the effects on Richmond businesses and residents will benefit by a better equipped, better trained and better located fire department. 	<p>\$10,000,000</p>
<p>Open Space and Urban Forest: Acquire open space on shoreline and hillsides. Fund Richmond’s Urban Forest to meet minimum requirements of a “Tree City USA” and national standards for amount of tree canopy.</p>	<ul style="list-style-type: none"> Recent studies indicate that <u>local mitigation measures must play a critical role in climate change strategies,</u> including the climate change benefits of sustainable urban forest management strategies. 	<p>\$20,000,000</p>

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	<p>Richmond’s urban forest is significantly below national standards, and urban forest benefits include, (<u>according to the U.S. Forest Service</u>):</p> <ol style="list-style-type: none"> 1. Air pollution removal 2. Air temperature reduction 3. Reduced building energy use 4. Absorption of UV radiation 5. Improved water quality 6. Reduced noise 7. Improved human comfort 8. Increased property value 9. Improved physiological and psychological well-being 10. Aesthetics Community cohesion <p>The impact of greenhouse gases is typically perceived as global climate change, but <u>the impacts are local</u>. As a <u>low-lying waterfront city</u>, <u>Richmond stands to sustain major impacts from rising water levels that could flood developed areas</u>. See <u>“Growing Cooler: The Evidence on Urban Development and Climate Change.”</u></p> <p>And In addition to nearly 900,000 metric tons of greenhouse gases produced in the refining process, the project will expand production capacity by 6 percent, which would be approximately 14,400 bbls. per day. That’s 604,800 gallons of product per day, or 218 million gallons per year. Each gallon of gasoline, which weighs about 6.3 pounds, could produce 20 pounds of carbon dioxide (CO₂) when burned. That’s 2.2 million tons of greenhouse gas annually from the 6 percent refinery capacity increase.</p> <ul style="list-style-type: none"> • Acquisition of North Richmond shoreline open space will preclude future development downwind from the refinery and protect public health. Acquisition of hillside open space will <u>preserve forest canopy and provide all the benefits listed above, including sequestration of greenhouse gases.</u> • • Attorney General Jerry Brown’s settlement with Conoco-Phillips over 	

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	<p>500,000 metric tons of greenhouse gas emissions from a refinery alteration project directed substantial funding to tree planting and wetlands restoration:</p> <p>Of the roughly \$10 million ConocoPhillips has agreed to pay, \$7 million will go to the Bay Area Air Quality Management District. The district will use the money for projects such as buying and scrapping old, polluting cars; converting vehicles to run on electricity or biofuels; <u>installing vegetation over garbage dumps</u> to trap and destroy methane; <u>and planting trees to offset greenhouse gases</u>. "We will select the most cost-effective projects," Ross said, "but we will also give weight to projects that improve air quality in the area near the plant." Under the pact, ConocoPhillips also will: <u>-Fund \$2.8 million for reforestation efforts in California</u> -Allocate \$200,000 to the <u>Audubon Society for restoration of the San Pablo wetlands</u> (<i>Oakland Tribune</i>, 9/12/2007).</p>	
<p><u>Renewable and Non-polluting Energy Production:</u> Provide at least 2 megawatts of solar PV power at locations in Richmond, through revolving loans, grants or publicly-owned projects.</p>	<ul style="list-style-type: none"> • The cost of photovoltaic generation capacity of 60 megawatts is about \$300 million. Chevron could use photovoltaic generation instead of fossil fueled generation, and if the entire 60 megawatts cannot be installed within the refinery, it could be transferred to buildings throughout Richmond. Chevron's subsidiary, Chevron Energy Solutions, is a major contractor in the solar photovoltaic field and would be good choice to do the work as well as train young people for "green" jobs. • 1 megawatt of PV solar will produce about 1.7 million kilowatt-hours of electrical power annually and offset about 1,280 tons of CO₂ annually. To put this in perspective, an average family living 	<p>\$15,000,000</p>

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	<p>in a single family home is responsible for producing about 10 tons annually of CO₂.</p> <ul style="list-style-type: none"> • Installation of solar PV systems can complement the job training programs outlined previously and contribute to reduced crime, safer streets, fewer VMT and healthier lifestyles. 	
<p><u>Zero-Carbon Footprint Demonstration Housing:</u> Sustainability subsidy for 300 units of zero-carbon footprint low-income housing.</p>	<ul style="list-style-type: none"> • By producing renewable energy on-site, providing mixed uses with on-site jobs and using cutting edge best practices for <u>reducing energy consumption, including VMT</u>, a demonstration project can provide both a local and national example of how such projects can be sited, designed, constructed and lived in. Studies show that people who move into compact, “green neighborhoods” are making as big a contribution to fighting global warming as those who buy the most efficient hybrid vehicles, but remain in car-dependent areas. The result will offset GHF emissions, reduce VMT and encourage similar projects in the future. See see http://www.smartgrowthamerica.org/gcindex.html. 	\$8,000,000
<p><u>Infrastructure:</u> Repair and replace deteriorating streets and sidewalks, potholes, improve pedestrian safety, complete “Quiet Zones” in southeast Richmond, improve Safe Routes to School, improve and increase street lighting and improve accessibility to persons with disabilities. Make “Complete Streets,” and complete missing portions of the Bay Trail, Richmond Greenway and other off-street transportation options.</p>	<ul style="list-style-type: none"> • The condition of streets and sidewalks discourages walking and biking as an alternative transportation choice <u>and increased the VMT</u>. Improving streets, sidewalks and trails will encourage pedestrian and bicycle use <u>and reduce VMT</u>. • The combination of grade crossing blockages and train horn noise (see http://www.nonoise.org/library/smj/smj.htm.) from rail serving local industries, including Chevron, is both a public health hazard and a public inconvenience that exacts a cost from Richmond residents. 	\$10,000,000
TOTAL		\$100,000,000

Conditional Use Permits in Richmond

15.04.910.020 Planning Commission’s Responsibility. The Planning Commission shall approve, or conditionally approve, applications for a conditional use which are consistent with the Richmond general plan, the specific purposes of the base or overlay zoning district in which the subject site is located, and the provisions of this chapter.

¹ BA. The Planning Commission shall approve or conditionally approve a conditional use permit application if, on the basis of the application, plans, materials, and testimony submitted at the hearing, the Planning Commission finds:

1. The location of the proposed conditional use is in accordance with the general plan of the City of Richmond;
2. The location, size, design, and operating characteristics of the proposed use will be compatible with and will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the proposed conditional use and the surrounding neighborhood;
3. The proposed use complies with all applicable provisions of this chapter;
4. The site of the proposed use is adequately served by highways, streets and other public service facilities.

All findings shall be based upon the factual data presented to the Planning Commission. If all findings cannot be made, the conditional use permit shall be denied.

B. The Planning Commission shall have the authority to impose reasonable conditions related to impacts caused by the project when approving the conditional use permit application in order to:

1. Achieve the specific purposes of the zoning district in which the conditional use is to be located, the general purposes of the zoning ordinance, and consistency with the City of Richmond's general plan;
2. Protect the public health, safety and welfare of the citizens of the City of Richmond;
3. Ensure that the operation and maintenance of the conditional use will be compatible with the neighborhood where it will be located;
4. Require a condition regarding the dedication of land or the posting of bonds for improvements if it is related to the proposed use of the property.

Environmental Justice

Environmental Justice is that catch all we all understand perfectly well but which doesn't fit neatly into the more quantifiable and traditional impacts that EIR consultants like to pigeonhole.

Succinctly defined, environmental justice is avoiding public policy decisions that disproportionately impact low income communities of color.

The EPA defines environmental justice as:

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.¹

And...

Environmental justice first emerged as a political issue in the late 1980's, after the United Church of Christ (UCC) issued a report arguing that low-income communities, and particularly communities of color, suffer a disproportionate share of the burden of environmental hazards. The UCC report focused on the siting of hazardous waste facilities, and suggested that prejudiced policymakers victimized low-income communities of color because of their relative lack of

¹ <http://www.epa.gov/envjustice>

political power. Many activists refused to use the term "environmental justice" and instead used "environmental racism" as a way of connecting their concerns to the civil rights movement.

The UCC report did not go unanswered. Many states, including California, and the federal government responded by enacting laws and executive orders requiring that government agencies identify and address environmental harms that disproportionately affect low income and minority communities. Some scholars, however, questioned the findings of the UCC report, arguing that more sophisticated techniques would reveal a lack of disparate impact. Any disparate impacts that did exist, they argued, were the result not of siting bias but rather the workings of the housing market: low-income people live in areas near Locally Undesirable Land Uses (or LULUs) because housing is less expensive in those areas. Finally, they rejected the racial bias claims, arguing that to the extent African-Americans and Latinos suffer disproportionately, they do so due to their socioeconomic status, not their race or ethnicity.²

The cause and effect argument is a circular one and avoids the important reality that environmental injustice or environmental racism is a fact, and this is demonstrated nowhere better than in Richmond.

Some have argued that the primary cause for the disparate distributions of incinerators, landfills, chemical processing plants, waste-generating facilities, noise sources, transportation infrastructure, and the like – locally undesirable land uses (or LULUs) -- is simply a case of market dynamics and not targeted racism; that at the time of the siting of a noxious facility there was no discrimination but eventually over time those nearby residents who could climb the ladder of success would move on to a more desirable neighborhood. Other residents, often non-white and on the lower end of the economic scale, either stayed and others came to reside in the older housing stock (with its concomitant lower property values) generally near these LULUs. This “white flight” debate has been likened to the “chicken and egg” analogy because it is a circular argument with no ability to determine cause and effect. Regardless of the origins for the inequitable distribution of unfavorable land uses (at least from a health and environmental perspective), studies have consistently demonstrated that exposure to hazardous materials may cause a myriad of health problems, including increased incidences of cancer, lead poisoning, kidney disorders, birth defects, lung disease, immune and nervous system disorders, asthma, and others. Therefore, it is understandable that grassroots organizations and community advocates desire that a full disclosure of possible exposures from the nearby or proposed noxious facilities be presented during the planning and environmental decision-making process.³

Much has happened in the public policy realm regarding environmental justice since Chevron’s last major permitting battle with the City of Richmond in 1993-94.

Just after the City Council overturned on appeal the Richmond Planning Commission’s conditions for approval of the Chevron Reformulated Fuels project, President Clinton signed an executive order on environmental justice:

This Order, signed by President Clinton on February 11, 1994, commits the Federal government to environmental justice (EJ) principles. The Order directs Federal agencies to incorporate EJ as part of their overall mission by identifying and addressing adverse human health and environmental effects on minority and low income populations. Furthermore, in issuing this Order, President Clinton directed Federal agencies to ensure compliance with Title VI of the Civil

² [Southern California Environmental Report Card 2001](http://www.earthscope.org/r1/ES14560/wia01e.html), Ann E. Carlson and Jonathan Zasloff, [UCLA Institute of the Environment](http://www.earthscope.org/r1/ES14560/wia01e.html), 2002, <http://www.earthscope.org/r1/ES14560/wia01e.html>

³ <http://www.calepa.ca.gov/envjustice/Documents/2003/Appendices/AppendixA.pdf>

Rights Act. Federal agencies must ensure that programs or activities that affect human health or the environment and receive Federal financial assistance, do not use criteria, methods or practices that discriminate on the basis of race, color, or national origin. To ensure compliance with Title VI, EPA recently issued interim guidance for investigating Title VI Administrative Complaints challenging permits.⁴

In 1997, The Richmond City Council passed *Resolution No. 204-97, In Support of the Principles of Environmental Justice*.

Remarkably, the term “environmental justice” appears nowhere in the 476-page DEIR for the Chevron Energy and Hydrogen Renewal Project, despite the fact that the adjacent and downwind community is predominantly low income, dominated by African-American, Latino and southeast Asians, suffers a homicide rate that makes Richmond the 9th most dangerous city in the United States (2006), encompasses schools with test scores among the lowest in California, has an epidemic of asthma and childhood obesity and the worst streets in the nine-county Bay Area.

CEQA is the logical tool for evaluating environmental justice issues.

First, CEQA requires government agencies to analyze not only the environmental impacts of the individual project but also whether that project, combined with other existing or planned projects, will generate significant cumulative impacts. CEQA then requires the agency to mitigate significant environmental harm, if feasible. For neighborhoods with already existing air pollution sources the cumulative impacts analysis may lead SCAQMD to reduce or eliminate the air emissions proposed by a new facility.

Second, CEQA explicitly states that an agency must mitigate the social and economic effects of a project with significant environmental impacts. For example, if a governmental entity wishes to build a new highway through a working-class neighborhood (as was common during the 1950s in communities like Boyle Heights), it must not only analyze and mitigate the air quality impacts the highway will create but also do the same for the projected loss of affordable housing. If a manufacturer wants to build a new facility in a largely low income residential area that is heavily Latino, under CEQA the SCAQMD should consider the project's effect on the neighborhood's desirability. But CEQA also has significant shortcomings that undermine its best features. The statute only requires "feasible" mitigation of environmental harm; if significant environmental effects remain, a permitting authority can prepare a "Statement of Overriding Considerations" and issue the permit anyway. Though it makes sense to give permitting authorities this flexibility, the discretion can and has been abused.⁵

Some California state agencies have taken this to heart:

In 1997, the U.S. EPA's Office of Environmental Justice released the Environmental Justice Implementation Plan, supplementing the EPA environmental justice strategy and providing a framework for developing specific plans and guidance for implementing Executive Order 12898. Federal agencies received a framework for the assessment of environmental justice in the EPA's Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analysis in 1998. This approach emphasizes the importance of selecting an analytical process appropriate to the unique circumstances of the potentially affected community. While many state agencies have utilized the EPA's Environmental Justice Implementation Plan as a basis for the development of their own environmental justice strategies and policies, as of yet the majority of California state agencies do not have guidance for incorporation of environmental

⁴ <http://www.epa.gov/envjustice>

⁵ [Southern California Environmental Report Card 2001](#), Ann E. Carlson and Jonathan Zasloff, [UCLA Institute of the Environment](#), 2002, <http://www.earthscope.org/r1/ES14560/wia01e.html>

justice impact assessment into CEQA analysis. The State Air Resources Board has, for example, examined this issue and has received advice from legal counsel, by a memorandum entitled "CEQA and Environmental Justice". This memorandum states, in part, "For the reasons set forth below, we will conclude that CEQA can readily be adapted to the task of analyzing cumulative impacts/environmental justice whenever a public agency (including the Air Resources Board (ARB), the air pollution control districts, and general purpose land use agencies) undertakes or permits a project or activity that may have a significant adverse impact on the physical environment. All public agencies in California are currently obliged to comply with CEQA, and no further legislation would be needed to include an environmental justice analysis in the CEQA documents prepared for the discretionary actions public agencies undertake."⁶

CalEPA supports the concept of environmental justice evaluation in CEQA reviews:

California has not one but two specific environmental justice laws on the books, but neither one specifically references the California Environmental Quality Act (CEQA). And though in many respects California has just recently begun the process of formally incorporating the concept of environmental justice into its programs and activities, at least some CEQA practitioners correctly point out that the State's overarching environmental law does indeed not only allow for, but requires the analysis of impacts on communities.

Though environmental documents present social and economic data in the "Setting" section, too infrequently the information is presented pro forma, and arguably did not go on in other sections of the report to adequately document potential project impacts on the human environment and further how they might be avoided or mitigated. There are probably a host of reasons for this, but certainly some analysts have the impression that CEQA addresses only "environmental" issues, not the social, demographic, or economic issues raised by environmental justice concerns. This impression has its roots in that CEQA requires only that physical changes in the environment be discussed (CEQA Guidelines Section 15358(b)).

The CEQA Guidelines, however, expressly address social and economic effects by authorizing the analysis of such effects in determining the significance of a physical change caused by the project. According to the Guidelines at Section 15131(b): for example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant. As an additional example, if the construction of a road and the resulting increase in noise in an area disturbed existing religious practices in the area, the disturbance of the religious practices could be used to determine that the construction and use of the road and the resulting noise would be significant effects on the environment. The religious practices would need to be analyzed only to the extent to show that the increase in traffic and noise would conflict with the religious practices. Where an EIR uses economic or social effects to determine that a physical change is significant, the EIR shall explain the reason for determining that the effect is significant.⁷

And...

President Clinton's 1994 Executive Order on environmental justice. This Executive Order established a national policy of addressing disproportionately high and adverse human health or environmental effects on minority populations and low-income populations. California followed suit in 1999, passing its own environmental justice policy. The Legislature declared that Cal-EPA should "conduct its programs, policies, and activities that substantially affect human

⁶ http://www.slc.ca.gov/Division_Pages/DEPM/DEPM_Programs_and_Reports/Mandalay/Sec%204.0-Draft%20IS%20MND.pdf

⁷ <http://www.calepa.ca.gov/envjustice/Documents/2003/Appendices/AppendixA.pdf>

health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low income populations of the state.

CEQA is unquestionably the most useful legal tool for the environmental justice advocate in California to implement California's environmental justice policy; just as NEPA, CEQA's federal model, is one of the principal legal mechanisms for accomplishing environmental justice at the federal level. Environmental Justice practitioners have also utilized other laws. For example, an array of pollution specific laws like the Federal Clean Water Act is available. However these laws usually address pollution problems after they have begun. They also systematically fail to address the problem of cumulative impacts and the interaction of social and environmental effects that underlie most environmental justice problems in communities of color.

Unlike NEPA, CEQA does not address environmental justice explicitly. However, CEQA takes direct aim at cumulative impacts, the interaction of physical and social impacts and the need for alternatives that avoid significant impacts. And it does so with a rich set of guidelines and case law that define how these concepts work in practice. These CEQA concepts also provide the substantive information that underlies any claim of discrimination under civil rights laws. The alternatives analysis is crucial.

Federal civil rights law makes it clear that demonstrating the availability of a nondiscriminatory alternative is a key to rebutting any claim that impacts affecting a particular low-income neighborhood or ethnic or racial group are necessary. Finally, CEQA supports the environmental justice movement's insight that an environmental decision making process that allows full public participation will more surely avoid injustice. CEQA encourages public hearings. It requires that documents be drafted so that they are useful to the public. CEQA provides that comments and information be available as early as possible and that agencies respond to comments. CEQA ultimately requires that environmental impact reports include a full discussion of environmental impacts, as well as mitigation and alternatives. A court has also required environmental documents to be in the language of those affected by a project, assuring that public disclosure is not mere lip service. All of these requirements provide the basis for a truly informed community.

Other doctrines are coming into the forefront to advance environmental justice, such as the precautionary principle. This principle requires putting the risk upon those seeking to affect the environment and requires a search for alternatives that avoid risks. This approach works hand in hand with CEQA. Only CEQA provides that a full environmental review is required if a project "may" cause a significant environmental effect. Only CEQA requires a set of alternatives devoted to avoid significant impacts and prevents a project going forward that cannot mitigate to insignificance. Only CEQA finds that cumulative impacts are significant if a project contributes to such effect even though their individual contribution is insignificant. Activists using CEQA have achieved victories stopping or mitigating impacts from incinerators, hazardous waste facilities, power plants, port and refinery expansions and other projects affecting lowincome communities and communities of color. CEQA, at its heart simply demands that a government agency fully contemplate and disclose the foreseeable consequences of its actions and avoid unnecessary environmental risks. This has turned out to be the primary weapon against environmental injustice in California.⁸

In 1994, we wrote (see Appendix):

The case for adequate nexus of the community foundation is more complex but just as compelling. Because of the unappealing environmental conditions that have existed downwind of the refinery for nearly a hundred years, the neighborhoods have attracted and continue to consist largely of residents of the least economic means. There is also evidence that continued exposure to pollution and periodic exposure to fires, explosions, and abnormal emission releases takes

⁸ http://www.pcl.org/pcl_files/6_Environmental_Justice.pdf

a toll on the physical and mental health of residents (A paper by Raquel Pinderhughes will be submitted - see summary under “Social and Psychological Changes”, above). This population consists predominantly of protected classes, including African-Americans, Hispanics, and Asians. Many residents feel “trapped” in this area, and those that can move out are replaced by others of similar economic means.

This reflected the facts, as described in the *Oakland Tribune*, but was rejected by ultra-conservative Richmond Planning staff and the EIR consultant:

Most West Contra Costa County residents have accepted their precarious surroundings like an unpredictable and sometimes violent relative - “it’s something you can’t change so you learn to live with it,” [Michelle Ozen] said...We’re victims really. We want things to change, or we want to move, but we can’t,” said Ozen, a 36-year-old office manager. “You just gotta live with it.”⁹...Some say the reason industry is often found near poor communities like North Richmond is simple. Poor people live near industry because the land there is cheap. Likewise, they say, industry tends to locate where the land is not too expensive...“You’re not going to see Chevron build a refinery in Moraga,” said Steve Morioka, a hazardous materials specialist with the county.¹⁰

Today, the law and the public policy context of environmental justice has advanced and been clarified. Most Americans assume that pollution and other environmental hazards are problems faced equally by everyone in our society. But a growing body of research shows the most common victims of environmental hazards are minorities and the poor.¹¹

A new study entitled “[Still Toxic After All These Years, Air Quality and Environmental Justice in the San Francisco Bay Area.](#)” by the Center for Justice, Tolerance and Community, University of California, Santa Cruz, confirms what we always knew – that poor and minority communities, including Richmond, are far more exposed to air pollution and its negative health impacts than other communities. One proposal that has come out of the study is assessing the impact of new facilities based on their cumulative effect on air quality rather than the conformance of the individual facility to emission standards.

⁹Chemical Hazards Just a Part of Richmond Life, *The Oakland Tribune*, July 28, 1993

¹⁰Race and The Environment, *West County Times*, August 1, 1993.

¹¹Raquel Penderhughes, “The Impact of Race on Environmental Quality,” *Race and Ethnicity*, ed. Harry Goulborne (Rutledge, 2001)