

Exhibit B

1.0 Mitigation Monitoring and Reporting Program

As the Lead Agency under the CEQA, the City of Richmond is required to adopt a program for reporting or monitoring that the adopted mitigation measures are implemented as defined in the certified Environmental Impact Report (EIR). This Lead Agency responsibility is found in Public Resources Code Section 21081.6(a) and CEQA Guidelines Sections 15091(d) and 15097.

The purpose of this Mitigation Monitoring and Reporting Program (MMRP) is to ensure that measures adopted to lessen or avoid significant impacts are implemented.

The MMRP establishes protocols for documenting compliance with the adopted mitigation measures. These protocols include review and approval of pre-construction design, operation, and mitigation plans or programs by the City, review by the City of permits issued by other agencies and jurisdictions, and daily field monitoring of the Renewal Project site by the City and/or its designee. The Renewal Project site includes the areas affected by the proposed Energy and Hydrogen Renewal Project (Renewal Project or project) at the Chevron Richmond Refinery (the Refinery)

1.1 Pre-Construction Activities

The adopted mitigation measures, and the timing and method for verification of compliance, are provided in Appendix A to this MMRP.

The EIR identified a list of permits required by the Renewal Project that is provided in Appendix B to this MMRP. These permits shall be obtained, as needed, by Chevron prior to the City issuance of a building or grading permit for each project component.

Any study, protocol, plan, or report required by a mitigation measure, and that is subject to approval by the City, must be provided in final form to the City at least 60 days in advance of beginning construction. Other agencies and jurisdictions may require additional review time. Compliance with all pre-construction mitigation measures presented in Appendix A will be verified prior to construction of each component of the Renewal Project. Construction on any part of the Renewal Project may not start before Chevron receives a written Notice to Proceed (NTP) from the City. Chevron may request, and the City may issue, a NTP for a portion of the project to allow construction while other portions undergo permitting or pre-construction review.

1.2 Monitoring Authority

The Planning and Building Services Department Director or his/her designee may delegate duties and responsibilities for monitoring to field monitors or consultants, as deemed necessary. In some cases, monitoring responsibilities may be assumed by responsible agencies, such as the Bay Area Air Quality Management District (BAAQMD), the Regional Water Quality Control Board (RWQCB), California Department of Transportation (Caltrans), or others, in which case the City will coordinate efforts with inspectors of the other agencies. The number of construction monitors assigned to the project will depend on the number of concurrent construction activities and their locations.

The City and/or its designee will ensure that any deviation from the procedures identified under the monitoring program has *prior* approval by the City. Any unanticipated deviation, and its correction, shall be reported immediately to the City and/or its designee. Variance procedures are discussed in Section 1.7 of this MMRP.

Documentation of mitigation compliance in the field will be conducted daily by the City's monitors using a standardized daily report format (Appendix C to this MMRP). The daily reports will document mitigation compliance and work progress. Additional periodic reports, such as weekly, monthly and/or quarterly reports, may also be compiled. Close coordination between any inspectors or monitors of other agencies, Chevron's environmental coordinator, and Chevron's construction managers or contractors will be required to effectively comply with the adopted mitigation measures.

1.3 Enforcement Responsibility

The Planning and Building Services Department Director or his/her designee may retain *expert consultants* to assist the City in monitoring Chevron's compliance with the mitigation measures and conditions of approval. The consultant's scope of work will include advising the City with respect to technical aspects of the project that are outside the expertise of City staff. Any assigned field monitor shall note any problems encountered during monitoring, notify appropriate agencies about any problems, and report to the City or its designee. The City will require all costs of compliance monitoring to be paid by Chevron.

The City's *field monitors* will perform compliance inspection throughout the construction period to ensure compliance with all applicable mitigation measures, plans, permits, and conditions of approval of the City. The City's monitors will have access to all active construction areas and areas affected by construction. The monitor will contact personnel on-site, and coordinate with the City's or Chevron's technical experts as needed during construction progress. The monitors will also complete daily monitoring reports (Appendix C). It is possible that some monitoring responsibilities may be assumed by responsible agencies, such as affected resource agencies, in which case the City's field monitors will coordinate with the inspectors of the other agencies. With regard to compliance and enforcement activities, the City's monitors will prepare and issue Non-Compliance Reports, if necessary, with levels of severity ranging from a warning to a serious violation, as appropriate, depending on severity of the incident and the potential impact (Section 1.5).

The City will rely upon the following monitors for ensuring compliance with the mitigation measures.

- **City Lead Field Monitor.** The City lead field monitor (LFM) will be the primary contact for Chevron's environmental coordinator. The LFM oversees other field monitors, the monitoring program, and the reporting program on a daily basis. The LFM also meets on a weekly basis with Chevron's environmental coordinator to discuss upcoming personnel and monitoring requirements by evaluating the level of construction activity and proximity and sensitivity of impacted resources. The LFM also communicates with the City project managers on a daily basis to ensure that the City has the most current information regarding field activities.
- **City Field Monitors.** Depending on the scheduling of activities for the Renewal Project, one or more field monitors may be required to maintain adequate oversight during construction. If only one field monitor is needed, this individual may also fill the function of the LFM. The field monitors may work in conjunction with the LFM to conduct daily oversight of all work areas. Oversight of the work area includes meeting with Chevron's monitors, patrolling the entire work area each day, and inspecting each construction site to ensure compliance with this MMRP. Field monitors will also be responsible for visually inspecting any sensitive areas that would be

affected by construction. The monitors compare the visual inspection of the area to the MMRP and any applicable permit requirements. The City field monitors will complete inspection reports for each construction site visited each day (Appendix C).

1.4 Mitigation Compliance Responsibility

Chevron is responsible for establishing an *environmental coordinator* responsible for compliance activities and for successfully implementing all conditions contained in project permits, City conditions of approval, and adopted mitigation measures. Chevron is responsible for assuring that these requirements are met by all of its construction contractors and field personnel.

Chevron is also responsible for assuring compliance with all applicable, pre-established programs and plans already in place at the Chevron refinery site which were considered during EIR impact analysis. These include, but are not limited to, pre-established programs: the California Accidental Release Prevention (CalARP) Program; Storm Water Pollution Prevention Plan (SWPPP), as required by the RWQCB; the San Francisco Basin Plan, which regulates discharges through National Pollutant Discharge Elimination System (NPDES) permits; the State Implementation Plan; and BAAQMD permits.

1.5 Process For Determining Compliance Status During Construction

The City's field monitor will document all observations and communications in a logbook and will determine whether the observed construction activities are consistent with mitigation measures, the project description in the certified EIR, and permit conditions.

The City's field monitor shall not direct the work of a construction contractor or subcontractor. If the activity does not properly implement the mitigation measures, the activity will be recorded in a "Non-Compliance" report, and the level of non-compliance will be determined, as defined below.

Non-compliance is defined as any deviation from applicable mitigation measures, the project description, or permit conditions. Designations for levels of compliance are an internal management tool, but not all of the non-compliance reports issued by City field monitors would represent a violation of project conditions or permits.

Non-compliance violation levels are defined as follows:

- **Level 1 Non-Compliance (Minor Problem).** One aspect of a mitigation measure has not been complied with, resulting in only partial implementation of a mitigation measure but no significant impact. An oral warning shall be issued to Chevron's environmental coordinator and corrective action shall be required within a stated maximum period. If corrective action is not taken within the stated period, a written warning will be issued.
- **Level 2 Non-Compliance (Violation).** One or more aspects of a mitigation measure have not been complied with, making the mitigation ineffective and resulting in minor impacts. If allowed to continue, this non-compliance could result in a significant impact over time. An oral warning and written warning will be submitted to Chevron's environmental coordinator. Non-compliance events would be documented in the daily environmental inspection reports. Corrective action shall begin immediately. If no corrective action occurs by the next construction day, a Non-Compliance Report shall be issued.

- **Level 3 Non-Compliance (Serious Violation).** One or more of the aspects or a mitigation measure are not complied with and the implementation of a mitigation measure is deficient or non-existent, resulting in significant impact(s), or there is immediate threat of major or irreversible environmental damage or property loss. Repeated Level 2 Non-Compliance can also lead to serious violations. An oral warning, followed by a Non-Compliance Report, will be submitted to Chevron's environmental coordinator. Chevron's contractor and/or individuals may be held responsible for consequences due to environmental violations, including potential fines. Corrective action shall begin immediately.

In addition to the above non-compliance levels, Chevron's Renewal Project may encounter emergency situations, such as fires or accidents (e.g., a fuel truck accident or a significant hazardous material spill). Emergency events would be communicated immediately to the appropriate jurisdictional agency and/or landowner. An emergency event may or may not result in a non-compliance situation. For example, if a brush fire started adjacent to the work area, this emergency would not necessarily be considered a non-compliance situation. If, the fire started due to the contractor's negligence, it would be reported as a serious non-compliance.

All non-compliance activity will be reported to the City via immediate notification or daily reporting based on the severity of the non-compliance. Based on the severity of a given infraction or pattern of non-compliance activity, the City has the authority to shut down project construction activities. If a shut down of construction activity occurs, construction shall not resume until the City authorizes it to do so. **No monitor (including the LFM) has the authority to shut down or restart construction activities.** However, the monitor has the authority to redirect work if an immediate threat to safety or a sensitive resource is imminent.

Revocation of the City Conditional Use Permit by the City is the ultimate enforcement mechanism.

1.6 City Reporting

The City will establish an electronic record of monitoring activities and compliance reports on a daily basis.

Daily Environmental Compliance Reporting

Each City field monitor would complete and submit daily environmental monitoring reports via e-mail to the Planning and Building Services Department Director or his/her designee. Reports will document pre-construction compliance, construction compliance, post-construction compliance, variance, and agency coordination activities. The reports can also be distributed by email to local resource agencies, in response to specific requests.

Digital Photo Documentation

Digital photographs will be taken during construction to document compliance levels, establish an electronic record of construction practices, and better describe non-compliance, serious non-compliance, and emergency situations should they occur. Digital photos will be forwarded to Chevron and appropriate agency personnel as necessary to assist in resolving non-compliance, serious non-compliance, and emergency situations. Electronic copies of the photos will be archived by the City for general reference and to document non-compliance resolutions. The photos will be included in the daily environmental monitoring reports.

Public Access to Records

Monitoring records and reports will be made available for public inspection by the City or its designee on request. Summary records of monitoring activities or compliance reports may be posted by the City on its website.

1.7 Variances or Deviations from Adopted Mitigation Measures

No variances or deviations from adopted mitigation measures can be approved by the City's staff without prior approval from the Planning Commission; variances from mitigation measures cannot be approved by the City's field monitors. Any requested variance from the approved mitigation measures shall be reviewed by the Planning Commission. Any request for a variance or deviation from the mitigation measures shall be submitted to the City's Planning and Building Services department, with the appropriate fee. Chevron and/or the contractor shall receive written approval prior to initiating the specific construction activity for which a variance is required. Chevron shall submit requests to the Planning and Building Services Department Director or his/her designee, with copies to the City Lead Field Monitor. The request should contain the following information:

- Date of request
- Detailed description of the proposed change in the mitigation measure and the reason for the change
- Location the variance will affect (including maps and photos, if needed)
- Description of the existing conditions in the area affected by the variance
- Which aspect of the mitigation measure will be affected by the variance (cite approved documents)
- Discussion of any previous variances of a similar nature
- An analysis that evaluates the potential for occurrence of:
 - New significant impact(s)
 - Incremental increase in an identified impact
 - Reduction in efficiency, nature, or geographical location of a mitigation measure
- Demonstration that the level of mitigation will be equal to or greater than the adopted mitigation measure
- Date of expected construction at the variance site.

1.8 Temporary Extra Work Space Procedures

Pursuant to Richmond Municipal Code, Chapter 15.04.945 Chevron shall apply for a Zoning Administrator temporary use permit for any temporary structures used on site, i.e. construction storage, offices, or other workspace.

1.9 Dispute Resolution

The MMRP is designed to reduce or eliminate many potential disputes. However, even with the best preparation efforts, disputes may occur. In such event, the following procedure will be observed:

- **Step 1.** Disputes and complaints (including those of the public) should be directed first to the City Director of Planning and Building Services Department for resolution. The City's Director Planning and Building Services Department or his designee will attempt to resolve the dispute.
- **Step 2.** Should this informal process fail, the City may initiate enforcement or compliance action to address deviations from the mitigation measures, the project description in the certified EIR, or permit conditions.

- **Step 3.** If a dispute or complaint regarding the implementation of this MMRP or the mitigation measures cannot be resolved informally or through enforcement or compliance action by the City, any affected participant in the dispute or complaint may file a written “notice of dispute” with the City Manager. This notice should be filed in order to resolve the dispute in a timely manner, with copies concurrently served on other affected participants. Within 10 days of receipt, the City Manager should meet or confer with the filer and other affected participants for purposes of resolving the dispute. The City Manager shall prepare a response to the “notice of dispute,” describe his decision, and serve it on the filer and other affected participants.
- **Step 4.** If one or more of the affected parties is not satisfied with the decision as described in the City Manager’s response, such party(ies) may appeal it to the City of Richmond Planning Commission.

Parties may also seek review and request hearings by the Planning Commission or City Council through existing procedures specified in the City of Richmond Municipal Code, although a good faith effort should first be made to use the foregoing procedure.

1.10 Condition Effectiveness Review

In order to fulfill statutory requirements to lessen or avoid significant effects on the environment and to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with adopted mitigation measures during project implementation:

- The City may conduct a comprehensive review of conditions which are not effectively mitigating impacts at any time it deems appropriate; and
- If, during review, the City determines that any mitigation measures are not adequately mitigating significant environmental impacts caused by the project, or that recent proven technological advances could provide more effective mitigation, then the City may impose additional measures or substitute more effective measures to implement the mitigation measures identified in the EIR.

1.11 Mitigation Measures

Appendix A to this MMRP includes the full text of the mitigation measures that were adopted by the City as conditions of approval of the Renewal Project and will be monitored during project implementation.

Appendix A

Mitigation Measures and Method of Verification of Compliance

Appendix B

Permits Required for the Chevron Energy and Hydrogen Renewal Project

Permits and Approvals Required

The following additional permits and approvals may be required for the some and / or many of the components of the Chevron Energy and Hydrogen Renewal Project:

- City of Richmond Conditional Use Permit, design review, grading and building permits;
- BAAQMD Authority to Construct and Permit to Operate;
- NPDES permit/ waste discharge requirements from the RWQCB;
- California Energy Commission Application for Certification or Small Power Plant Exemption;
- A water supply assessment prepared by the East Bay Municipal Utility District;
- A Caltrans encroachment permit may be needed for implementation of proposed traffic mitigation measures.

Appendix C

Sample Daily Monitoring Form

**MITIGATION MONITORING AND REPORTING PROGRAM
DAILY SITE INSPECTION FORM**

Project Component: _____

Field Monitor: _____

LOCATION: _____ **DATE:** _____

PROJECT PHASE: Pre-Construction Construction Operation

DESCRIPTION OF OBSERVED ACTIVITY:

MITIGATION MEASURES VERIFIED:

COMPLIANCE

- Project is in compliance with environmental mitigation measures
- Warning (Mitigation Measure not fully implemented, however, no eminent resource threat or damage)
- Non-Compliance Report (Violates the project's environmental requirements and places environmental resources at risk or minor incidents are repeated, and show a trend toward placing resources at unnecessary risk)

ITEMS REQUIRING FOLLOW-UP: