

CONTRA COSTA COUNTY
ASSESSMENT APPEALS BOARD

In the Matter of)
)
CHEVRON USA, INC.)
)
Applicant.)
)
Applications for Changed Assessment.)
)
(Nos. 2007-2194 through 2007-2256;)
2008-5206 through 2008-5272; 2009-)
3692; 2009-5746; 2009-6108 through)
2009-6115; 2009-6117 through 2009-)
6159)
_____)

FINDINGS AND DECISIONS

The Applications for Changed Assessment of Chevron U.S.A. Inc. (“Chevron” or the “Applicant”), requesting reductions in the value of property located at its Richmond Refinery (the “Property” or the “Refinery”) for tax years 2007, 2008, and 2009, were heard before the Contra Costa County Assessment Appeals Board (the “Board”), which is comprised of Chairman Arthur Walenta, Board Member Clark Wallace, and Board Member James Giacomini (the “Hearing”). The Applicant appeared through its attorneys from Pillsbury Winthrop Shaw Pittman, LLP. The Contra Costa County Assessor (the “Assessor”) appeared through its attorneys from Greenan, Pepper, Sallander & Lally, LLP. Having reviewed and considered the evidence, argument, and briefs in this matter, the Board issues the following findings, conclusions, and decision, including Exhibits A, B, and C.

The Board hereby adopts and incorporates by reference the foregoing exhibits, which are attached hereto, as part of this decision.

I

BASE YEAR VALUES

Chevron’s applications for changed assessment included applications for changes in base year values. The Assessor moved to limit the hearings on Chevron’s applications to

preclude hearing Chevron's base year value claims, and Chevron moved the Board to take jurisdiction of, and to determine its applications for changes in base year values. The Board's September 15, 2011, decision denied Chevron's applications for changes in the base year values. That decision is attached hereto and incorporated herein as Exhibit A.

II

APPRAISAL UNIT

By its order dated July 28, 2011, the Board determined that the appraisal unit for the 2007, 2008, and 2009 hearings on Chevron's applications on the assessed valuation of its Richmond Refinery is the land, improvements, fixtures, and personal property of the Chevron U.S.A. Richmond Refinery. That order is attached hereto and incorporated herein as Exhibit B. (See our discussion of the appellate decision in *Western States Petroleum Association v. California State Board of Equalization* in our ruling on Chevron's supplemental assessment appeal.) The parcels included in and excluded from the appraisal unit are described in Exhibit C, which is also attached hereto and incorporated herein.

III

THE ASSESSOR HAS FAILED TO SUBSTANTIATE HIS VALUATIONS OF THE RICHMOND REFINERY FOR THE YEARS 2007, 2008, AND 2009

The enrolled fair market values of the Richmond refinery are \$3,413,229,044 as of January 1, 2007; \$3,430,295,188 as of January 1, 2008; and \$3,105,612,000 as of January 1, 2009. On July 27, 2011, the Assessor filed appraisals by Principal Appraiser Peter Yu, valuing the refinery at \$3,555,000,000 for 2007; \$3,650,000,000 for 2008; and \$3,500,000,000 for 2009. On October 13, 2011, the Board rejected as improper a proposed raise letter based on Mr. Yu's valuations. Subsequently, the Assessor offered Mr. Yu's testimony supporting the original enrolled values on the same basis as his July 27, 2011, opinions of value.

The evidence the Assessor offered on the enrolled fair market values of the Richmond refinery for 2007, 2008, and 2009 was Principal Appraiser Peter Yu's testimony, based on the Income Approach, as to his July 27, 2011, appraised values and as to the original enrolled values.

The evidence is sufficient to rebut the presumption that the Assessor performed his duties properly and establishes that the enrolled values are not correct. (Property Tax Rule 321(a).)

When Chevron's counsel asked Mr. Yu to explain the basis or grounds for his opinions, Mr. Yu testified that his opinions were based on his judgment as an appraiser and assessor. Of the materials from which Mr. Yu determined his opinions, we note by way of example that the reports of the Assessor's expert witness Baker & O'Brien, submitted with Mr. Yu's July 27, 2011, appraisal, shows alternatives for the discounted present value of projected cash flow from the Richmond refinery ranging from \$2,831,441,000 to \$6,420,548,000. Some evaluative basis was required to show how Mr. Yu applied such materially divergent data to determine his opinions of value. In the face of such divergence, ranging from hundreds of millions to billions of dollars, the Board concludes that Mr. Yu failed to qualify and substantiate his opinions of value adequately.

Mr. Yu considered the Cost Approach and the Comparable Sales Approach, but declined to use either approach on the ground that he believed the data to be unreliable, a decision with which the Board agrees. Apart from Mr. Yu's opinions, the Assessor offered minimal evidence as to the fair market value of Chevron's Richmond refinery. Mr. Wise, the Principal Appraiser responsible for the 2007, 2008, and 2009 roll values of the refinery, testified (when called by Chevron) that Assessor Kramer dictated those values to him. The Assessor is legally entitled to determine the roll values of Chevron's refinery, and the values so determined are presumed to be legally correct. But Chevron presented evidence supporting its position and so met its burden of production (Property Tax Rule 313(c)) requiring the Assessor to present evidence to support his enrolled values. The Assessor personally offered no evidence to support the roll values he dictated to his responsible Principal Appraiser, and the Board has found that Mr. Yu's opinions as to value were inadequately supported.

Accordingly, this Board cannot conclude that the Assessor has substantiated his assessed fair market values for Chevron's Richmond refinery.

IV

**CHEVRON USA HAS FAILED TO SUBSTANTIATE
ITS CLAIMED VALUATIONS OF THE RICHMOND REFINERY
FOR THE YEARS 2007, 2008, AND 2009**

Chevron contends that the fair market values of its Richmond refinery are \$1,800,000,000 on January 1, 2007, \$1,400,000,000 on January 1, 2008, and \$1,150,000,000 on January 1, 2009. However, the independent evidence that Chevron presented does not establish that Chevron's values are the full values of the property. (Rev. & Tax Code, § 1610.8.)

The parties have given evidence on the three approaches that Property Tax Rule 3 prescribes for estimating the value of the Richmond refinery:

A. The prices at which comparable properties have recently sold (Comparable Sales Approach):

As to Comparable Sales, Revenue and Taxation Code section 402.5 requires that such sales be near in time to the valuation date, near in location to the property being valued, and sufficiently alike in respect to character, size, situation, and usability to show clearly that the cash equivalent sale price of the sold property may fairly provide relevant information as to the value of the subject property.

~~The parties have not identified comparable refinery sales that actually provide~~ adequate information as to the Richmond refinery's value. The sale most comparable as to recent time and similar size is that of the Lyondell refinery in 2006. But that refinery is located in Texas, and is distinguishable with regards to its distance, its crude supply, and its product market. Both parties discuss the comparability of the nearby Avon refinery sale in 2002 and the Tesoro-Los Angeles refinery sale in 2007. But the Avon sale involved a refinery with much less crude processing capacity than

Richmond and with a different crude and product slate. Furthermore, that sale was made under duress. The Tesoro-Los Angeles refinery was sold in 2007, and so its sale was comparable as to location and time. However, the Tesoro-Los Angeles refinery was much smaller than the Richmond refinery, its technology was older, and its condition was not up to industry standard. The crude oil capacity of the Tesoro-Los Angeles refinery was less than half that of the Richmond refinery, and its processing capacities were quite different. The Board finds that the evidence fails to demonstrate comparable sales that the Board should consider. (Compare the appellate decision in *Texaco, Inc. v. County of Los Angeles* (1982) 136 Cal.App.3d 601, which is instructive although not directly on point.)

B. The cost of replacing reproducible property with new property of similar utility or of reproducing the property at its present site, less depreciation (Cost Approach);

As to the Cost Approach, a market driven replacement of the Richmond refinery is highly unlikely, and the cost of any such replacement is so speculative that the Board does not believe that replacement cost calculations could be sufficiently accurate to be of use in determining the refinery's fair market value.

C. The amount that investors would be willing to pay for the right to receive the income that the property would be expected to yield (Income Approach).

Both parties agree that the Income Approach is the method of valuation actually used by prospective buyers in sales transactions of refineries.

"Operating refinery businesses transact based on the expectation of future income. Therefore, the Income Approach is the basis for determining actual sales prices and is considered to be the best indicator to determine Business Enterprise Value in a refinery appraisal."

(Applicant's Exhibit 181, Bates 166)

"Baker & O'Brien has evaluated the historical profitability of Richmond,

prepared projections of its future income, and determined the present value of its future income. . . .

“In Baker & O’Brien’s experience, this kind of information is normally provided by sellers for purposes of due diligence and is considered by buyers when negotiating the purchase of a refinery.”

(Assessor’s July 27, 2011, Narrative Appraisal Reports, Part A, pp. 38-39.)

The Income Approach is governed by Property Tax Rule 8, pursuant to which a future income stream is determined and discounted by a capitalization rate to its present worth, the Business Enterprise Value. The working capital requirements and the value of intangible assets are then subtracted from the Business Enterprise Value to determine the assessable value of the property.

The calculations of the future income streams, the capitalization rates, and the value of intangibles are extremely complex in the case of refineries and require highly specialized knowledge and business experience. Both Kathy Spletter and Stancil & Co., which provided expert reports and testimony for Chevron USA, and Don Flessner and Baker & O’Brien, which provided expert reports and testimony for the Assessor, are well qualified to provide the necessary analyses and provided competent evidence, although the details of their methods and the results of their analyses differ.

As to the determination of the projected future income streams for the Richmond refinery, the Board finds the analysis of Stancil & Co. not to be persuasive, as indicated below in Part IV B.

As to the determination of the appropriate capitalization rates, Property Tax Rule 8(g) authorizes either of two means: (1) a market-derived capitalization rate that can be estimated by comparing the net incomes anticipated from recent sold comparable properties with their sale prices; or (2) a weighted average cost of capital

(WACC) that can be estimated by averaging and adjusting the capitalization rates for debt and equity appropriate to the California money markets.

The discount rates Stancil & Co. advances are market-derived rates, based on the sales of refineries in places as remote as Aruba; Great Falls, Montana; and Memphis, Tennessee. The Board finds these market-derived discount rates to be unpersuasive. The sold refineries do not meet the comparability requirements mandated by Revenue and Taxation Code section 402.5, which, in the Board's opinion, govern comparability under Property Tax Rule 8(g)(1). Equally important, Property Tax Rule 8(g)(1) requires that the relevant sales prices and incomes "are available." The Stancil & Co. analysis cannot substantiate the availability of actual, as compared to estimated, calculated, or projected sale price and income data with respect to most of the refinery sales on which it relies.

Both Baker & O'Brien and Stancil & Co. calculated discount rates using the weighted average cost of capital (WACC) method that Property Tax Rule 8(g)(2) allows. The Board concludes that the weighted average cost of capital discount rates that Baker & O'Brien calculated are supported by a preponderance of the evidence. The resulting discount rates are 13.86 for 2007, 13.48 for 2008, and 14.84 for 2009.

The Board concludes that the WACC discount rates of 26.58 for 2007, 26.60 for 2008, and 26.67 for 2009 that Stancil & Co. calculated are greatly exaggerated. The Board notes the following: As to the debt/equity ratio, the 40/60 proportion that Baker & O'Brien used is realistic. The 20/80 ratio that Stancil & Co. used as to two of the years at issue is less realistic, particularly given the tax benefits that support leveraging debt as much as possible. As to the risk-free rate of return, the Board finds that the 4.04 percent rate that Baker & O'Brien used, based on 10-year Treasury

bonds, is more realistic than the 4.9 percent rate Stancil & Co. used, based on long-term Treasury bonds. The Board finds that the betas Stancil & Co. calculated are exaggerated. The Board also finds that the two to three percent Project Specific Risk Factors Stancil & Co. added violate the Rule 8(g)(2) provisions that the State Board of Equalization mandates.

Chevron USA has failed to prove by a preponderance of the evidence that its 2007, 2008, and 2009 valuations of its Richmond refinery, whether on the basis of the Comparable Sales Approach, the Cost Approach, or the Income Approach, are correct.

V

THE BOARD MUST MAKE ITS OWN DETERMINATIONS OF VALUE BASED ON THE EVIDENCE PROPERLY ADMITTED AT THE HEARING

The evidence presented at the hearing has led the Board to conclude that both the Assessor and Chevron USA have failed to substantiate a fair market value for Chevron's Richmond refinery. (Compare this Board's finding on the 2004, 2005, and 2006 applications by Chevron for reduced Richmond refinery assessments: "The Board finds that the values of the Property propounded by both parties are unreasonable.") Nevertheless, hearings on Chevron's applications have continued for thirty-five (35) hearing days and have concluded after the Board has received extensive evidence and argument.

It is accordingly incumbent on this Board to make its own determinations of the fair market value of Chevron's Richmond refinery, based on the evidence admitted at the hearing. The Board has weighed all of the evidence presented by both parties (Property Tax Rule 321(a)) and determines the full value of the property as follows. (Rev. & Taxation Code, § 1610.8; Property Tax Rule 324(b).)

A. The Board relies on the Income Approach to value, as do the parties. The Board has found that the Comparable Sales Approach and the Cost Approach cannot be supported on the evidence provided in this case. (See: Section III, Parts A and B, above.)

B. The Board has concluded that the income analyses that Baker & O'Brien developed with respect to the 2007, 2008, and 2009 values of Chevron's Richmond refinery are supported by a preponderance of the evidence and identify alternative projected business enterprise values for each year, which the Board accepts.

Both parties have offered considerable evidence bearing on determination of the projected income flows that must be discounted to determine the business enterprise values of the refinery on the respective lien dates.

The Board finds that the City of Richmond's exactions and environmentalists' well-intentioned but problematic efforts would adversely affect a potential buyer's reasonable expectations of the refinery's profitability as of the relevant lien dates. State and federal government regulations, both effective and impending, notably Assembly Bill No. 32, would be expected to have adversely affected the future market demand for gasoline and the cost of producing it as of the lien dates, which impact any buyer's reasonable expectations of the refinery's future profitability. The effects on value of weather, political events, and natural disasters must also be considered.

On the other hand, the Richmond refinery is very well managed and is extremely profitable. The refinery has a unique capacity to produce the feedstocks for lubricants. This highly profitable enterprise would not be expected to be necessarily affected either by government regulations or by the demand for gasoline. The refinery is also a major producer of aviation and diesel fuels. The manufacture of these alternative fuels will enable it to maintain high profitability regardless of possible declines in demand for gasoline.

Although premium Alaskan crude oil's availability may be decreasing, the Richmond refinery has ample ability to obtain and capacity to use equivalent crude oils, and any real threat to the refinery's profitability for this reason is speculative.

The Richmond refinery's location is a very important factor in favor of its continuing profitability. Its accessibility by water is superior to that of competing refineries, and it has convenient access for marketing its products to most of the State of California.

As noted in Part IV.C., above, the Board has found that a preponderance of the evidence supports the WACC discount rates that Baker & O'Brien used.

In estimating the value of the refinery's future income streams and its business enterprise value, Stancil & Co. has developed a single estimate for each lien date, taking many factors, such as those mentioned above, into account. Also taking such factors into account, Baker & O'Brien has used a different, more sophisticated methodology, which the Board finds to be superior. As to each lien date, Baker & O'Brien has developed and discounted multiple possible income streams to business enterprise values, each of which applies the various factors differently. Baker & O'Brien then assigns a weighting of likely probability to each business enterprise value that has been determined. The Board concludes that the various realistic factors are complex and that Baker & O'Brien's determination of alternative reasonable income streams and business enterprise values is supported by a preponderance of the evidence and is more likely to lead to a true value than Stancil & Co.'s single income stream analysis.

C. Insofar as the method and calculations used in the Baker & O'Brien analyses result in a range of before-tax present values for each year, some means of resolving a single value for each year must be determined. The Baker & O'Brien reports allocate weights to the different values, which are then resolved to a single Baker & O'Brien value. The Board

concludes that assigning equal weights of 25 percent to the different values is fair and reasonable insofar as equalizing the weights will decrease the weight of the higher values. Applying the weights to the different values in the ranges results in the weighted value of each. The Board finds that the sum of the weighted values in each range is the best business enterprise value of the Richmond refinery that can be determined from the evidence that the Board has received. Accordingly, the Board finds the following are the business enterprise values of the Richmond refinery on the respective lien dates:

| | |
|-------|------------------|
| 2007: | \$4,628,521,750; |
| 2008: | \$5,479,774,000; |
| 2009: | \$4,369,358,750. |

D. Working Capital, which, in the case of refineries, is the value of the inventory, must by rule be deducted from the business enterprise values when determining assessed values. The report of Stancil & Co., which the Board accepts as to working capital, calculates the value of the Richmond refinery's inventory as follows:

| | |
|-------|----------------|
| 2007: | \$620,000,000; |
| 2008: | \$900,000,000; |
| 2009: | \$480,000,000. |

E. The value of the Richmond refinery's intangible assets must also be deducted from the business enterprise values when determining assessed values. The Board's conclusions as to the values of the refinery's intangible assets are as follows:

1. Trained and Assembled Workforce:

The Board adopts the evidence offered in the Stancil & Co. report as to trained and assembled workforce, as follows:

| | |
|-------|----------------|
| 2007: | \$115,000,000; |
|-------|----------------|

2008: \$ 75,000,000;

2009: \$ 51,300,000.

2. Engineering Drawings:

The Board finds that the evidence does not show that the Richmond refinery's engineering drawings have significant independent fair market value insofar as their value is subsumed within that of the plant and equipment, from which they are inseparable. Nevertheless, the report of ParenteBeard ascribes some value to them, which the Board adopts:

2007: \$ 898,000;

2008: \$1,054,000;

2009: \$1,060,000.

3. Customized Computer Software:

The Board adopts the values found in the ParenteBeard report for the Richmond refinery's customized computer software:

2007: \$19,400,000;

2008: \$15,300,000;

2009: \$11,300,000.

4. Operating, Maintenance, and Safety Manuals:

The Board adopts the values found in the ParenteBeard report for the Richmond refinery's operating, maintenance, and safety manuals:

2007: \$4,300,000;

2008: \$4,300,000;

2009: \$4,300,000.

5. Technology Licenses:

The Board finds that the technology licenses that the Richmond refinery possesses have no market value, insofar as they are not transferable to a buyer without the license owner's consent.

6. Permits:

The Board finds that the government and regulatory permits that the Richmond refinery possesses have fair market value insofar as they are costly and transferable to a buyer. The Board adopts the permit values offered in the Stancil & Co. report, as follows:

| | |
|-------|---------------|
| 2007: | \$45,100,000; |
| 2008: | \$30,600,000; |
| 2009: | \$20,600,000. |

7. Going Concern Value:

The Board adopts the high range of going concern values for the Richmond refinery found in the ParenteBeard report, based on the costs that would be incurred in starting up an idle but existing refinery:

| | |
|-------|---------------|
| 2007: | \$50,586,000; |
| 2008: | \$ 8,400,000; |
| 2009: | \$ 7,600,000. |

8. Total value of intangibles:

| | |
|-------|----------------|
| 2007: | \$235,284,000; |
| 2008: | \$134,654,000; |
| 2009: | \$ 96,160,000. |

VI
ADDITIONAL FINDINGS

The Board makes the following additional findings.

1. Chevron filed applications seeking a change in the assessed value of the Richmond Refinery on the grounds that the enrolled values rested upon incorrect fair market values and/or incorrect factored base year values.
2. In its September 15, 2011, decision, the Board denied Chevron's applications for change in base year values.
3. Chevron had the burden to establish by a preponderance of properly admitted evidence in the record that the taxable values that the Assessor enrolled for the Richmond Refinery were incorrect.
4. The valuation issue that the Board was to determine was the taxable fair market value of the Richmond Refinery as of the lien dates January 1, 2007; January 1, 2008; and January 1, 2009.
5. The absence of any evidence that a refinery replicating the Richmond Refinery could be reproduced in the Bay Area impairs the use of a Property Tax Rule 6 cost approach to determine the Richmond Refinery's fair market value.
- ~~6. The insufficiency of evidence that the cost of delay in reproducing a replication of the Richmond Refinery could be determined impairs the use of a Property Tax Rule 6 cost approach for determining the Richmond Refinery's fair market value.~~
7. The evidence of the Richmond Refinery's depreciation is inadequate to substantiate the use of a Property Tax Rule 6 cost approach for determining the Richmond Refinery's fair market value.

8. Evidence that buyers and sellers do not use the cost approach in the marketplace to value refineries like the Richmond Refinery impairs the use of a Property Tax Rule 6 cost approach for determining the Richmond Refinery's fair market value.

9. Lack of evidence of petroleum refinery sales transactions that meet the standards for a comparable sale valuation analysis precludes using a Property Tax Rule 4 comparable sales approach for determining the Richmond Refinery's fair market value.

10. Evidence that negligible reliable market data exists for petroleum refinery sales transactions that meet the standards for a comparable sale valuation analysis impairs the use of a Property Tax Rule 4 comparable sales approach for determining the Richmond Refinery's fair market value.

11. The absence of sufficient evidence of any properly and reliably computed cash-equivalent prices for petroleum refinery sales transactions that meet the standards for a comparable sales valuation analysis precludes use of a Property Tax Rule 4 comparable sales approach for determining the Richmond Refinery's fair market value.

12. The absence of sufficient evidence that Chevron made any proper and reliable adjustments of sales transactions of petroleum refineries to make those refineries comparable to the Richmond Refinery so as to meet the standards for a comparable sales valuation analysis precludes use of a Property Tax Rule 4 comparable sales approach for determining the Richmond Refinery's fair market value.

13. Evidence that buyers and sellers do not use the comparable sales approach in the marketplace to value refineries like the Richmond Refinery impairs the use of a Property Tax Rule 4 comparable sales approach for determining the Richmond Refinery's fair market value.

14. A Property Tax Rule 8 income approach for determining the Richmond Refinery's fair market value is the appropriate valuation methodology for determining whether the Richmond Refinery's enrolled taxable values for the tax years 2007, 2008, and 2009 correctly or incorrectly indicate the Richmond Refinery's fair market value.

15. Baker & O'Brien's reports and testimony with respect to a Property Tax Rule 8 income approach to the Richmond Refinery's valuation properly applied the standards and requirements of Rule 8 valuation.

16. Baker & O'Brien's derivation of the Richmond Refinery's historical charge and yield of feedstocks/inputs and product/outputs volumes was reasonable and appropriate and, for the most part, consistent with Chevron's parallel derivation of the Richmond Refinery's historical charge and yield.

17. Baker & O'Brien's derivation of historical prices for the Richmond Refinery's feedstocks/inputs and product/outputs volumes was reasonable and appropriate and, for the most part, consistent with Chevron's parallel derivation of the Richmond Refinery's historical charge and yield.

18. Baker & O'Brien's derivations of the Richmond Refinery's historical fixed and variable operating expenses were reasonable and appropriate.

19. Baker & O'Brien's projection out to the year 2020 of alternative future Richmond Refinery feedstocks/inputs and product/outputs volumes was reasonable and appropriate to take into account potential future Richmond Refinery capabilities and market conditions.

20. Baker & O'Brien's use of the mid-cycle margin analyses for projecting out to the year 2020 future prices for feedstocks/inputs and product/outputs volumes was reasonable and appropriate for generating projected Richmond Refinery cash flows.

21. Chevron's use of average historical Richmond Refinery margins over a varying period of years was arbitrary and not reasonable for generating projected Richmond Refinery cash flows.

22. Baker & O'Brien's projections of future Richmond Refinery fixed and variable operating expenses were reasonable and appropriate for generating projected Richmond Refinery cash flows.

23. Baker & O'Brien's projections of Richmond Refinery sustaining capital were reasonable and appropriate for generating projected Richmond Refinery cash flows.

24. Chevron's projections of Richmond Refinery sustaining capital were not reasonable and were inappropriate to the extent such calculations included charges for facilities and projects (such as the hydrogen renewal project) that did not exist on the lien dates.

25. Baker & O'Brien's use and consideration of four projected Richmond Refinery cash flows to reflect alternative future pricing scenarios and alternative market conditions due to potential Assembly Bill No. 32 environmental regulatory compliance impacts were reasonable and appropriate.

26. Chevron's cash flows used an historic look back, which could offer no specific evidence of potential future pricing and market condition effects on Richmond Refinery production capabilities due to potential Assembly Bill No. 32 environmental regulatory compliance impacts.

27. Chevron's projected Richmond Refinery cash flows, based on arbitrary selection of historical averages of varying periods of years, were not a reasonable or appropriate projection of future Richmond Refinery cash flows.

28. The Property Tax Rule 8(g)(2) weighted average cost of capital (“WACC”) or band of investment approach is the appropriate method for determining a discount or capitalization rate to project Richmond Refinery future cash flows.

29. Buyers and sellers in the marketplace use a Property Tax Rule 8(g)(2) weighted average cost of capital (“WACC”) method for determining a discount or capitalization rate to apply to projected future cash flows in refinery sales transactions.

30. The Property Tax Rule 8(g)(1) market-derived discount rate approach is not an appropriate method for determining a discount or capitalization rate to apply to projected Richmond Refinery future cash flows because Chevron has failed to provide sufficient evidence that petroleum refinery sales transactions have occurred that meet the standards for comparability under the Property Tax Rules.

31. The Property Tax Rule 8(g)(1) market-derived discount rate approach is not an appropriate method for determining a discount or capitalization rate to apply to projected Richmond Refinery future cash flows because Chevron has failed to produce sufficient evidence of any properly and reliably computed cash-equivalent prices for petroleum refinery sales transactions that meet the standards for comparable sales under the Property Tax Rules.

32. The Property Tax Rule 8(g)(1) market-derived discount rate approach is not an appropriate method for determining a discount or capitalization rate to apply to projected Richmond Refinery future cash flows because Chevron has failed to provide sufficient evidence of its having used reliable sales data and buyers’ expectations, as opposed to appraiser judgment or industry/typical figures, for petroleum refinery sales transactions in computing a market-derived discount rate under the Property Tax Rules.

33. The Property Tax Rule 8(g)(1) market-derived discount rate approach is not an appropriate method for determining a discount or capitalization rate to apply to projected Richmond Refinery future cash flows because Chevron has failed to provide sufficient evidence that buyers and sellers in the marketplace use a market-derived discount rate in petroleum refinery sales transactions for determining a discount or capitalization rate to apply to projected future cash flows.

34. Baker & O'Brien used an appropriate weighted average cost of capital formula comprised of the cost of debt multiplied by the weight of debt in the capital structure for acquiring the Richmond Refinery, plus the cost of equity multiplied by the weight of equity in the capital structure for acquiring the Richmond Refinery.

35. Chevron used an inappropriate weighted average cost of capital formula by adding to the cost of debt and the cost of equity additional improper values or factors for size in the cost of equity and an additional specific risk value of two to three percent, which Chevron never identifies as either a cost of debt or a cost of equity.

36. Baker & O'Brien's use of a capital structure of forty percent (40%) debt and sixty percent (60%) equity for its weighted average cost of capital derivation was reasonable and appropriate.

37. Baker & O'Brien's use of five-, ten-, and fifteen-year laddered maturities of BBB-rated industrial bonds for the before-tax cost of debt and its conversion to after-tax cost of debt for the weighted average cost of capital derivation was reasonable and appropriate.

38. Baker & O'Brien's use of 3.53 percent as the cost of debt for 2007, 3.48 percent as the cost of debt for 2008, and 3.97 percent as the cost of debt for 2009 in its weighted average cost of capital derivation was reasonable and appropriate.

39. Baker & O'Brien's use of the capital asset pricing model ("CAPM") in its weighted average cost of capital derivation was reasonable and appropriate.

40. Baker & O'Brien's use of a U.S. Treasury ten-year constant maturity bond interest rate as the risk-free rate for its capital asset pricing model calculation was reasonable and appropriate, and the rate so derived more appropriately matched the duration of the cash flows than the twenty-year bond that Chevron used.

41. Baker & O'Brien's use of computed and adjusted Betas for its capital asset pricing model calculation was reasonable and appropriate.

42. Baker & O'Brien's use of a market risk premium of six percent (6%) for its capital asset pricing model calculation was reasonable and appropriate.

43. Baker & O'Brien's use of 10.07 percent as the cost of equity for 2007, 9.72 percent as the cost of equity for 2008, and 10.73 percent as the cost of equity for 2009 was reasonable and appropriate.

44. Baker & O'Brien's conversion of the after-tax weighted average cost of capital to a before-tax weighted average cost of capital and then to a before-tax discount rate adding property tax values was reasonable and appropriate.

45. Baker & O'Brien's use of 13.86 percent as the Property Tax Rule 8(g)(2) discount rate for 2007, 13.48 percent as the Property Tax Rule 8(g)(2) discount rate for 2008, and 14.84 percent as the Property Tax Rule 8(g)(2) discount rate for 2009 was reasonable and appropriate.

46. Baker & O'Brien's calculations of terminal values for projected future Richmond Refinery cash flows using the projected Richmond Refinery cash flows and computed Property Tax Rule 8(g)(2) discount rates for 2007, 2008, and 2009 were reasonable and appropriate.

47. Baker & O'Brien's range of business enterprise values based on the projected Richmond Refinery cash flows, computed Property Tax Rule 8(g)(2) discount rates, and terminal values of \$2,831,441,000 to \$6,420,548,000 for 2007, \$3,301,276,000 to \$7,663,177,000 for 2008, and \$2,218,037,000 to \$6,512,276,000 for 2009 were reasonable and appropriate.

48. ParenteBeard's use and consideration of \$2,000,000 to \$19,400,000 for 2007, \$900,000 to \$15,300,000 for 2008, and \$33,000 to \$11,300,000 for 2009 for the fair market value of an identified Richmond Refinery intangible asset of computer software were reasonable and appropriate.

49. ParenteBeard's use and consideration of \$0 to \$898,000 for 2007, \$0 to \$1,054,000 for 2008, and \$0 to \$1,060,000 for 2009 for the fair market value of an identified Richmond Refinery intangible asset of engineering drawings were reasonable and appropriate.

50. ParenteBeard's use and consideration of \$0 to \$4,300,000 for 2007, \$0 to \$4,300,000 for 2008, and \$0 to \$4,300,000 for 2009 for the fair market value of an identified Richmond Refinery intangible asset of operation, training, and safety manuals were reasonable and appropriate.

51. ParenteBeard's use and consideration of \$0 for 2007, \$0 for 2008, and \$0 for 2009 for the fair market value of an identified Richmond Refinery intangible asset of propriety technology and licenses were reasonable and appropriate.

52. ParenteBeard's use and consideration of \$9,900,000 to \$50,586,000 for 2007, \$0 to \$8,400,000 for 2008, and \$0 to \$7,600,000 for 2009 for the fair market value of an identified Richmond Refinery intangible asset of going concern value were reasonable and appropriate.

53. ParenteBeard's value ranges of identified Richmond Refinery intangible assets were consistent with the ranges of intangible asset values reported in market data with respect to publicly reported refinery transactions.

54. Chevron's aggregate values of identified Richmond Refinery intangible assets were inconsistent with and far exceeded the ranges of intangible asset values reported in market data with respect to publicly reported refinery transactions.

55. The Assessor's conclusions and use of \$7.00 per square foot for 2007, \$8.60 per square foot for 2008, and \$6.75 per square foot for 2009 for the Richmond Refinery industrial land values were reasonable and appropriate fair market land values for the Richmond Refinery industrial land.

56. The Assessor's conclusions and use of \$2.30 per square foot for 2007, \$2.50 per square foot for 2008, and \$2.25 per square foot for 2009 for the Richmond Refinery tank farm/hillside land values were reasonable and appropriate fair market land values for the Richmond Refinery tank farm/hillside land.

57. The Assessor's conclusions and use of \$4,000 per acre for 2007, \$4,000 per acre for 2008, and \$4,000 per acre for 2009 for the Richmond Refinery open space land values were reasonable and appropriate fair market land values for the Richmond Refinery open space land.

58. Chevron's conclusions and use of Richmond Refinery industrial land values, hillside/tank farm land values, and open space land values were neither reasonable nor appropriate, given that Chevron's land appraiser failed to take into consideration numerous adjustments and considerations that precluded the selected comparable sales analyses from yielding a reasonable opinion of value for the subject Richmond Refinery lands.

59. The Assessor's conclusions and use of \$10,487,824 for 2007, \$10,238,088 for 2008, and \$9,705,103 for 2009 for Richmond Refinery possessory interested in leased State of California land were reasonable and appropriate.

60. Chevron's conclusions and use of values for Richmond Refinery possessory interested in leased State of California land were neither reasonable nor appropriate because they failed to recognize that only the State of California could provide a lease of the Richmond Refinery-leased State of California land, and the State Land Commission set the rate of return for such leases.

61. The Assessor's conclusions and use of \$258,623,600 for Richmond Refinery land and possessory interest fair market value for 2007, \$307,631,592 for Richmond Refinery land and possessory interest fair market value for 2008, and \$244,774,894 for Richmond Refinery land and possessory interest fair market value for 2009 were reasonable and appropriate.

VALUATION DECISIONS

The Board hereby finds that the fair market values of Chevron USA's Richmond refinery are as follows:

| | |
|------------------|------------------|
| January 1, 2007: | \$3,773,237,750; |
| January 1, 2008: | \$4,445,120,000; |
| January 1, 2009: | \$3,793,198,750. |

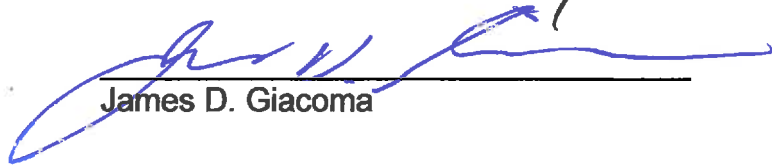
As the Board ordered on December 1, 2011, the Assessor shall allocate the foregoing values to the parcels that are the subject of Chevron USA's applications.

Dated: April 2, 2012

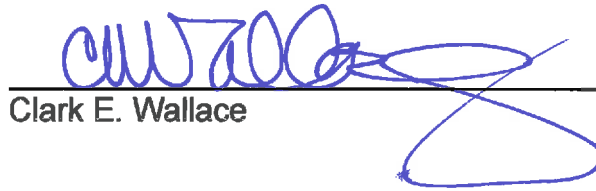
CONTRA COSTA COUNTY
ASSESSMENT APPEALS BOARD



Arthur W. Walenta, Chair



James D. Giacoma



Clark E. Wallace

EXHIBIT A

CONTRA COSTA COUNTY ASSESSMENT APPEALS BOARD

In the Matter of)
)
CHEVRON USA,)
)
Applicant.)
)
Applications for Changed Assessment.) **DECISION ON CHEVRON'S**
) **APPLICATIONS FOR CHANGE**
) **IN BASE YEAR VALUES**
(Nos. 2007-2194 through 2007-2256;)
2008-5206 through 2008-5272; 2009-)
3692; 2009-5746; 2009-6108 through)
2009-6115; 2009-6117 through 2009-)
6159))
_____)

1. **The Assessor's Motion for Decision on Base Year Value is granted, and Chevron USA's Base Year Value Motion I — that the Board take jurisdiction over Chevron's base year value claims alleging errors and overstatements in the components of the Assessor's purported 2007-2009 base year value that relate to asset additions and retirements to the Refinery since the January 1, 2006, lien date — is denied.**
2. **Chevron USA's Base Year Value Motion II — that the Board take jurisdiction over Chevron's base year value claims alleging errors and overstatements in the components of the Assessor's purported 2007-2009 base year value that relate to asset additions and retirements to the Refinery between the January 1, 2003, and January 1, 2006, lien dates — is denied.**
3. **Chevron USA's Base Year Value Motion III — that the Board take jurisdiction over Chevron's base year value claims alleging errors and overstatements in the components of the Assessor's purported 2007-2009 base year value that relate to asset additions and retirements to the Refinery before the January 1, 2003, lien date — is denied.**
4. **The 2007, 2008, and 2009 applications of Chevron USA for changes in base year value are severally denied.**
5. **Insofar as Chevron USA purports to appeal pre-2004 base year values by its 2007, 2008, and 2009 applications, the applications are severally denied.**

5. Insofar as Chevron USA purports to appeal pre-2004 base year values by its 2007, 2008, and 2009 applications, the applications are severally denied.
6. Insofar as Chevron USA purports to appeal 2004, 2005, and 2006 base year values by its 2007, 2008, and 2009 applications, the applications are severally denied.

FINDINGS

1. Property Tax Rule 305 requires that an application for change in assessment provide the applicant's opinion of the value of the property (Rule 305(c)(1)(E)) and the role value of the property (Rule 305(c)(1)(F)). The Board finds that these requirements apply with respect to applications for a change in base year value.
2. At the January 10, 2011, First Prehearing Conference on the subject applications, the Board provided written notice to the parties that the possible invalidity of Chevron USA's 2007 and 2008 applications (for assessment reductions) was at issue, insofar as the applications failed to state the applicant's opinion of value, and the subject was discussed.
3. By letter on February 24, 2011, the Assessment Appeals Clerk notified Chevron USA that the 2007 and 2008 applications would be set for an invalidity hearing before the Assessment Appeals Board unless they were amended to state the applicant's opinion of value. Chevron filed amended applications.
4. At the time of the foregoing communications, Chevron USA's right to appeal base year values on its 2007, 2008, and 2009 applications for assessment reduction was contested by the Assessor and unresolved, but none of the subject applications, as amended, stated the base year value of the property that Chevron wanted changed or Chevron's opinion as to the correct base year values.
5. After hearing on the Assessor's motion to limit the scope of the hearings on Chevron USA's 2007, 2008, and 2009 applications, so as to preclude hearing Chevron's appeals for base year value changes, the Board ruled on June 6, 2011, that it would consider Chevron's 2007, 2008, and 2009 base year value applications, subject to the conditions that:

"Chevron must file a separate verified statement as to each base year value it intends to appeal"

and that with each such statement, Chevron must show:

"i. The base year value that is appealed, and Chevron's opinion as to the correct base year value."
6. On August 15, 2011, the Board made a Preliminary Order on Base Year Value Appeals directing Chevron to provide, as to every base year value opposed by Chevron:

- i. The amount to which the Assessor has increased the base year value, or Chevron's opinion as to such amount.
 - ii. Chevron's opinion as to the correct base year value.
 - iii. The grounds upon which Chevron's opinion is based.
7. Chevron USA has filed thousands of pages of exhibits and hundreds of pages of declarations and arguments without providing any adequate statement, as to "each base year value" appealed, showing what the contested base year value is, and Chevron's opinion as to the correct base year value. Rather, Chevron has left the Board to extrapolate from Chevron's totality of evidence and argument some notion of the contested base year values and Chevron's claims regarding them. This showing fails to meet the requirements of Rule 305 and the Board's June 6, 2011, and August 15, 2011, rulings.
8. Chevron USA's 2007, 2008, and 2009 applications for change in base year value are accordingly denied.
9. Insofar as Chevron USA's applications purport to appeal pre-2004 base year values, encompassing assessment valuations as early as 1978, this Board in its June 6, 2011, ruling found that Chevron may not appeal pre-2004 base year values, because the statute of limitations bars such appeals, and because Chevron has forfeited and waived its right to appeal such values by failing to raise those matters in its 2004 appeals. The Board additionally finds that Chevron is legally estopped to litigate pre-2004 base year valuations at this time. Chevron claims the right to contest valuations made over decades of time with its knowledge and acquiescence, upon which the Assessor has relied for an equal number of decades, and which comprise a material element of the complex assessment program in place to determine the correct taxable valuation of the Chevron refinery. We accordingly adhere to our previous ruling.
10. Chevron USA also purports to appeal base year values effective for 2004, 2005, and 2006. Our June 6, 2011, ruling held that Chevron may not appeal those base year values in this proceeding, because they were a subject of this Board's previous hearing on Chevron's 2004, 2005, and 2006 applications. We affirm that ruling.

Dated: September 15, 2011

CONTRA COSTA COUNTY ASSESSMENT APPEALS BOARD

By



Board Chair

CONTRA COSTA COUNTY
ASSESSMENT APPEALS BOARD

| | | |
|--------------------------------------|---|-------------------|
| In the Matter of |) | |
| |) | |
| CHEVRON USA, |) | |
| |) | |
| Applicant. |) | |
| |) | ORDER DETERMINING |
| Applications for Changed Assessment. |) | APPRAISAL UNIT |
| |) | |
| (Nos. 2007-2194 through 2007-2256; |) | |
| 2008-5206 through 2008-5272; 2009- |) | |
| 3692; 2009-5746; 2009-6108 through |) | |
| 2009-6115; 2009-6117 through 2009- |) | |
| 6159) |) | |
| |) | |

The Board's June 8, 2011, Second Prehearing Conference Order, inter alia, directed that the parties file cross-motions on determination of the appraisal unit for the subject hearings. The parties have filed briefs and declarations, which the Board has considered.

Article XIII, section 1, subdivision (a), of the California Constitution provides, in relevant part:

"All property is taxable and shall be assessed at the same percentage of fair market value." (Emphasis added.)

Revenue and Taxation Code section 51, subdivision (d), provides in relevant part:

"[R]eal property' means that appraisal unit that persons in the marketplace commonly buy and sell as a unit or that is normally valued separately."

This Board's Findings and Decision on Chevron's 2004, 2005, and 2006 assessment appeals determined that Chevron's Richmond refinery essentially constituted one appraisal unit, because the land, improvements, fixtures, and personal property of the refinery:

". . . are used together in conjunction with the operation of the refinery and would be sold or bought together as refinery property."

The Assessor has offered evidence from Chevron in the prior hearing that refineries are bought and sold, and normally valued, as a single economic unit, including land, improvements, fixtures, and personal property; and that Securities and Exchange Commission filings demonstrate that, in the marketplace, refineries are valued and sold as a single unit. Chevron has offered no evidence disputing the contention that refineries are usually bought and sold as single economic units, including their land, improvements, fixtures, and personal property. Chevron's 2007, 2008, and 2009 applications for changed assessment that are the subject of these proceedings admit that, as to each year, Chevron's applications are for all of the assessed refinery parcels, treated as a single economic unit.

Chevron contends that the fixtures at the Richmond refinery should be valued as an appraisal unit separate from the refinery, land, improvements, and personal property. The basis for this contention is that part of Revenue and Taxation Code section 51, subdivision (d), which provides that property that is "normally valued separately" should be treated as an independent appraisal unit

Chevron's claim must be dismissed for several reasons. First, the evidence cited above shows that in the marketplace, refineries' fixtures are not valued separately when those refineries are bought and sold. Second, Chevron has offered no evidence that the Assessor valued its Richmond refinery's fixtures as a separate appraisal unit in recent years. Third, Chevron has offered no evidence that its Richmond refinery's fixtures have any utility other than their use as a necessary part of the refinery operation. Fourth, the comparable sales approach to valuation cannot reasonably be applied respecting a refinery if its fixtures are treated as a separate appraisal unit. Fifth, the income approach to valuation cannot reasonably be applied to a refinery if its fixtures are treated as a separate appraisal unit.

The evidence is undisputed that persons in the marketplace commonly buy and sell refineries as a unit, and the evidence does not establish that refinery fixtures are normally valued other than as an element of the refinery operation. A determination that the land, improvements, fixtures, and personal property at Chevron's Richmond refinery comprise a single appraisal unit is, accordingly, consistent with Revenue and Taxation Code section 51.

The Board notes that its decision is consistent with Property Tax Rule 474, which the Board would apply to 2007, but the Board has reached its decision independently of the rule.

The Board also concludes that the actual "fair market value" of Chevron's Richmond refinery is its value as an economic unit, which would be bought and sold including the value

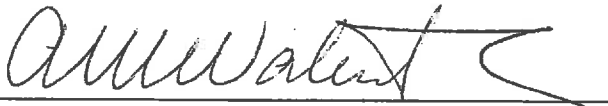
of its land, improvements, fixtures, and personal property. Article XIII, section 1, subdivision (a) of the California Constitution requires that property be assessed with respect to its actual fair market value, and the Board's decision is consistent with this constitutional mandate.

ACCORDINGLY, THE BOARD ORDERS:

The Appraisal Unit for the 2007, 2008, and 2009 hearings on Chevron's applications on the assessed valuation of its Richmond refinery is the land, improvements, fixtures, and personal property of the Chevron USA Richmond refinery.

Dated: July 28, 2011

CONTRA COSTA COUNTY ASSESSMENT APPEALS BOARD

By 
Board Chair

BOARD EXHIBIT A TO FINDINGS

The Board determines that the appraisal unit to be valued is comprised of 45 parcels (and a portion of parcel 561-100-040-6), consisting of approximately 2,658.14 acres of land, improvements and fixtures, and personal property. The parcels included in such appraisal unit are as follows:

561-100-003-4; 561-100-009-1; 561-100-010-9; 561-100-011-7; 561-100-012-5; 561-100-013-3; 561-100-017-4; 561-100-025-7; 561-100-029-9; 561-100-037-2; 561-100-038-0; 561-100-040-6 (563.60 acres of the 621.58-acre parcel); 561-080-001-0; 561-080-002-0; 561-080-003-8; 561-080-005-3; 561-080-006-1; 561-080-007-9; 561-090-003-6; 561-090-004-4; 561-410-002-1; 561-410-003-9; 561-040-004-5; 561-040-005-2; 561-013-6; 561-040-014-4; 561-040-015-1; 561-040-016-9; 561-030-001-3; 561-030-002-1; 561-030-003-9; 561-030-005-4; 561-400-008-0; 561-390-001-7; 561-390-003-3; 561-390-004-1; 561-390-016-5; 561-110-001-6; 561-110-020-6; 561-110-021-4; 561-110-022-2; 561-110-033-9; 561-110-034-7; 561-110-035-4; 561-110-036-2; 561-110-041-2.

As stipulated by the Applicant and the Assessor, the appraisal unit excludes the 57.98 acre portion of parcel 561-100-040-6 and excludes the following 15 parcels:

561-100-8; 558-232-001-5; 558-232-002-3; 558-232-003-1; 558-232-004-9; 558-232-005-6; 558-232-006-4; 558-232-007-2; 558-232-008-0; 558-233-003-0; 561-322-016-8; 561-319-004-9; 561-319-014-8; 561-319-015-5; 561-319-016-3.