



BAY ACCESS, INC.

dedicated to creating a water trail on San Francisco Bay

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The Honorable John Garamendi
Chair, California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

Subject: Renewal of Chevron Lease, Richmond, California

Dear Chairman and members of the State Lands Commission:

I write as a Board Member of Bay Access, a non-profit group whose mission has been to develop a water trail in and along the margins of San Francisco Bay; we are the organization that authored legislation which became the San Francisco Bay Water Trail Act of 2006. I have previously commented on the draft EIR for renewal of the Chevron Lease. The end users of the Water Trail, whom we represent, are directly affected by renewal of the lease—if the lease is renewed without any modifications, the members that we represent will be forced away from the margins of the Bay and into the heavier traffic of San Francisco Bay. While we would like to see the infrastructure of the Chevron operation reconfigured so that it conflicts neither with boating nor shoreline access, we support the recommendations of the City of Richmond and the Bay Conservation and Development Commission.

We urge the Commission to conclude that the continued devotion of a disproportionate amount of the tidelands along Richmond's shoreline to one **exclusive** tidelands user is not in the public interest. We believe that the Commission not only has the authority, but the responsibility to terminate the lease unless measures are found

that involve greater sharing the public tidelands. Unfortunately, you have before you an EIR that did not look at the feasibility of different ways to share the tidelands, but instead treated the presence of a wharf and an expired lease as part of the given environment. (The EIR simply states that "...the Long Wharf ... has been defined as part of the existing environment." This is simply a tautology selected to avoid analysis, in fact, the Long Wharf would have to be removed if the lease is not renewed.) You cannot rely on a document that treats an expired lease and improvements as, in essence a property right—that approach ignores the substantive responsibility you have in determining whether renewal of the lease is in the public interest and advances the public trust.

Unfortunately, you have no information that informs you of the relative costs of different measures that might reduce the "footprint" of the Chevron operation on Richmond. Nor do you have information about the cost savings in transportation that Chevron will realize in continuing their operation without change. Without this information, which would have been provided under a more comprehensive EIR approach, it is difficult to weigh different measures that could better balance the competing public trust uses.

Finally, we must differ with the conclusion in the EIR that there is no nexus between renewal of the lease and provision of the Bay Trail because the State's tideland interest does not extend to the proposed location of the Bay Trail. Under CEQA, you have the responsibility to look at the **entirety** of the project, which includes the wharf on State Tidelands, and the supporting infrastructure directly adjacent to the Long Wharf. That adjacent infrastructure is **not**, as the EIR contends, more appropriately associated with other refinery operations, but rather part of the Long Wharf. Without renewal of the lease, Chevron would have to consider relocating their transshipment point. Moving that location further north, or offshore, would eliminate the need for infrastructure located where Chevron now says that provision of the Bay Trail is impossible. If there is no vested rights to continued existence of the wharf without renewal of the lease, then the area now occupied by that infrastructure would be available for private redevelopment or public acquisition. In either case, the Bay Trail would be completed. While the Commission might not be able to say that provision of the Bay Trail is the only way to mitigate the impacts of the project, a forced relocation because the lease is denied would eventually result in the same outcome.

In conclusion, we urge you to consider requiring redesign of the off-loading facilities for Chevron such that they do not block access for small craft along the shoreline, and so that renewal of the lease does not guarantee that the associated infrastructure blocks shoreline access for another 50 years. Alternatively, we think that accepting the recommendations of the City of Richmond regarding the Bay Trail is the only way in which you can find that the project furthers the public trust interests of all parties, not merely Chevron.

Very truly yours,

Jim McGrath
Board Member, Bay Access