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17 Attorneys for Respondents and Defendants
18 CITY OF RICHMOND

19
20 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
21
22 IN AND FOR THE COUNTY OF CONTRA COSTA

23 COMMUNITIES FOR A BETTER
24 ENVIRONMENT, ASIAN PACIFIC
25 ENVIRONMENTAL NETWORK, and WEST
26 COUNTY TOXICS COALITION, all
27 California Nonprofit Corporations,

28 Petitioners and Plaintiffs,

29 v.

30 CITY OF RICHMOND; and DOES 1 through
31 10, inclusive,

32 Respondents and
33 Defendants.

34 CHEVRON PRODUCTS COMPANY, a
35 California Corporation, CHEVRON
36 CORPORATION, a Delaware Corporation;
37 and DOES 11 THROUGH 20, inclusive,

38 Real Parties in Interest and
39 Defendants.

) Case No.: MSN08-1429
) CEQA ACTION
)
) **STIPULATION AND [PROPOSED]**
) **ORDER ESTABLISHING SCHEDULE**
) **TO NOTICE OBJECTIONS**

) Dept.: 33
) Judge: Hon. Steven K. Austin

) Action Filed: September 4, 2008

1 TO THE COURT:

2 This Stipulation is made and entered into between Respondent and Defendant City of
3 Richmond (the "City"), Real Party and Defendant Chevron Products Company ("Chevron"),
4 Petitioner and Plaintiff Communities For A Better Environment ("CBE"), and Petitioner and
5 Plaintiff Asian Pacific Environmental Network ("APEN"), by and through their respective counsel.

6 On August 15, 2014, City filed with this Court that certain Supplemental Return to the
7 Peremptory Writ of Mandate and Request For Schedule To Notice Objections ("Supplemental
8 Return"), a true and correct copy of which is attached hereto as Exhibit A, excluding exhibits
9 thereto.

10 In summary, the Supplemental Return requests this Court to set a schedule pursuant to
11 which notice of any Objections to the Supplemental Return must be filed. The Supplemental
12 Return further requests a hearing date and briefing schedule on a Motion to Discharge the
13 Peremptory Writ to be filed by the City in the event any Objections are timely filed.

14 On August 28, 2014, City, Chevron, CBE, and APEN met and conferred regarding the
15 Supplemental Return. On the basis of such meeting, City, Chevron, CBE, and APEN hereby
16 stipulate to the following modified schedule for (i) submission of Objections and (ii) a Motion to
17 Discharge the Peremptory Writ in the event Objections are timely filed:

18
19 Petitioners' Objections:

To be filed with this Court, and served
electronically or by overnight delivery on or
before September 30, 2014.

20
21 City's Record/ City's and Real Party's
22 Opening Briefs:

To be filed with this Court, and served
electronically or by overnight delivery on or
before October 30, 2014, which is 30 days after
receipt of Petitioners' Objections.

23
24 Petitioners' Opposition Brief(s):

To be filed with this Court, and served
electronically or by overnight delivery on or
before December 8, 2014.

25
26
27 City's and Real Party's Reply Briefs:

To be filed with this Court and served
electronically or by overnight delivery on or

before January 12, 2015.

Hearing: To be set by the Court on a date within approximately two weeks after the Reply Briefs are filed. City to notify the court of the need to set a hearing date upon filing of Petitioners' Opposition Briefs.

/////

IT IS SO STIPULATED.

DATED: September 4, 2014.

Jennifer L. Hernandez
HOLLAND & KNIGHT LLP

Attorneys for Respondents and Defendants
CITY OF RICHMOND

DATED: September 4, 2014.



Barbara J. Schussman
PERKINS COIE LLP

Attorneys for Real Party and Defendant
CHEVRON PRODUCTS COMPANY

DATED: September 4, 2014.

Roger Lin
COMMUNITIES FOR A BETTER ENVIRONMENT

Attorney for Petitioner and Plaintiff
COMMUNITIES FOR A BETTER ENVIRONMENT

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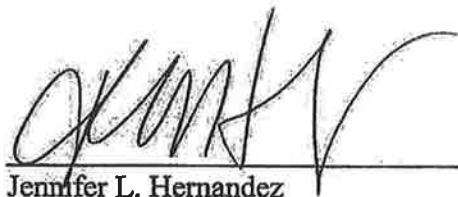
before January 12, 2015.

Hearing: To be set by the Court on a date within approximately two weeks after the Reply Briefs are filed. City to notify the court of the need to set a hearing date upon filing of Petitioners' Opposition Briefs.

////

IT IS SO STIPULATED.

DATED: September 4, 2014.



Jennifer L. Hernandez
HOLLAND & KNIGHT LLP

Attorneys for Respondents and Defendants
CITY OF RICHMOND

DATED: September 4, 2014.

Barbara J. Schussman
PERKINS COIE LLP

Attorneys for Real Party and Defendant
CHEVRON PRODUCTS COMPANY

DATED: September 4, 2014.

Roger Lin
COMMUNITIES FOR A BETTER ENVIRONMENT

Attorney for Petitioner and Plaintiff
COMMUNITIES FOR A BETTER ENVIRONMENT

before January 12, 2015.

Hearing: To be set by the Court on a date within approximately two weeks after the Reply Briefs are filed. City to notify the court of the need to set a hearing date upon filing of Petitioners' Opposition Briefs.

/////

IT IS SO STIPULATED.

DATED: September 4, 2014.

Jennifer L. Hernandez
HOLLAND & KNIGHT LLP

Attorneys for Respondents and Defendants
CITY OF RICHMOND

DATED: September 4, 2014.

Barbara J. Schussman
PERKINS COIE LLP

Attorneys for Real Party and Defendant
CHEVRON PRODUCTS COMPANY

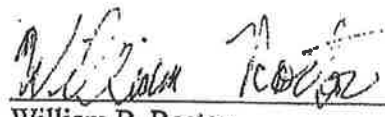
DATED: September 9, 2014.


Roger Lin
COMMUNITIES FOR A BETTER ENVIRONMENT

Attorney for Petitioner and Plaintiff
COMMUNITIES FOR A BETTER ENVIRONMENT

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DATED: September 9, 2014.



William B. Rostov
EARTHJUSTICE

Attorney for Petitioner and Plaintiff
ASIAN PACIFIC ENVIRONMENTAL NETWORK

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1. Any and all Objections to the City's August 15, 2014 supplemental return ("Supplemental Return") to this Court's Peremptory Writ of Mandate issued in this action on March 14, 2011 ("Peremptory Writ") shall be filed with this Court, and served on all parties electronically or by overnight delivery, on or before September 30, 2014;

3. In the event any Objection to the Supplemental Return is timely filed, then the City shall file a Motion to Discharge the Peremptory Writ with this Court, and served on all parties electronically or by overnight delivery, on or before October 30, 2014. Such filing shall include or be accompanied by the City's administrative record and City's and Chevron's opening briefs in support of the Motion to Discharge;

5. City and Chevron shall file briefs in reply to Petitioners' opposition briefs with this Court, and served on all parties electronically or by overnight delivery, on or before January 12, 2014.

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6. Upon the filing of the Petitioners' opposition briefs, the City shall notify this Court of the need to set a hearing date on the City' Motion to Discharge, which hearing shall be scheduled to occur within approximately two weeks following City's filing of its reply brief.

IT IS SO ORDERED.

Dated: September __, 2014



Hon. Steven K. Austin
Judge of the Superior Court

Hearing set 1-28-15 at 9am D33

EXHIBIT A

**STIPULATION AND [PROPOSED] ORDER ESTABLISHING
SCHEDULE TO NOTICE OBJECTIONS**

FILED

2014 AUG 15 P 2:09

CLERK OF COURT
A.J. GAMBOL

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10 Attorneys for Respondents and Defendants
11 CITY OF RICHMOND

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF CONTRA COSTA
14

15 COMMUNITIES FOR A BETTER) Case No.: MSN08-1429
ENVIRONMENT, ASIAN PACIFIC) CEQA ACTION
16 ENVIRONMENTAL NETWORK, and WEST)
17 COUNTY TOXICS COALITION, all) SUPPLEMENTAL RETURN TO THE
California Nonprofit Corporations,) PEREMPTORY WRIT OF MANDATE;
18) REQUEST FOR SCHEDULE TO
Petitioners and Plaintiffs,) NOTICE OBJECTIONS
19)

20 v.)
21 CITY OF RICHMOND; and DOES 1 through) Dept.: 34
10, inclusive,) Judge: Hon. George V. Spanos
22)

23 Respondents and)
Defendants.) Action Filed: September 4, 2008
24)

25 CHEVRON PRODUCTS COMPANY, a)
California Corporation, CHEVRON)
26 CORPORATION, a Delaware Corporation;)
and DOES 11 THROUGH 20, inclusive,)

27 Real Parties in Interest and)
28 Defendants.)

1 TO THE COURT:

2 Respondent and Defendant City of Richmond (the "City") makes the following
3 supplemental return ("Supplemental Return") to this Court's Peremptory Writ of Mandate issued in
4 this action on March 14, 2011 ("Peremptory Writ"):

5 On March 5, 2013, the City filed a return to the Peremptory Writ informing this Court that,
6 on February 19, 2013, the City passed Resolution No. 13-13, which resolution set aside all City
7 permits, authorizations, and any and all other approvals for the Chevron Energy and Hydrogen
8 Renewal Project that was the subject of this action ("2008 Project"), as required by the Peremptory
9 Writ.

10 On July 29, 2014, the City passed Resolution No. 66-14. A true and correct copy of this
11 Resolution No. 66-14, along with its exhibits, is included as Exhibit A. In relevant part, Resolution
12 No. 66-14:

- 13 a) Certifies the Environmental Impact Report for the Chevron Refinery Modernization
14 Project (State Clearinghouse No. 2011062042) ("EIR"), a project-level environmental
15 impact report prepared pursuant to the California Environmental Quality Act ("CEQA"),
16 Public Resources Code § 21000 *et seq.*, for the Chevron Refinery Modernization Project
17 ("2014 Project"), a smaller version of the 2008 Project. A true and correct copy of the
18 EIR is included as Exhibit B.
- 19 b) Adopts the Findings Pursuant to Public Resources Code section 21081 for the 2014
20 Project ("CEQA Findings"). A true and correct copy of the CEQA Findings is included
21 within Exhibit A.
- 22 c) Adopts the Mitigation Monitoring and Reporting Program for the 2014 Project
23 ("MMRP"). A true and correct copy of the MMRP is included within Exhibit A.
- 24 d) Adopts and makes conditions of approval of the 2014 Project and any alternative thereto
25 all of the mitigation measures that are within the responsibility and jurisdiction of the
26 City that are identified in the CEQA Findings.

1 On July 29, 2014, the City also passed Resolution No. 67-14. A true and correct copy of
2 this Resolution No. 67-14, along with its exhibits, is included as Exhibit C. In relevant part,
3 Resolution No. 67-14 approves Conditional Use Permit and Design Review Permit PLN11-089 for
4 the 2014 Project, subject to Conditions of Approval contained therein, in accordance with
5 Richmond Municipal Code §§ 15.04.910; 15.04.930.

6 The Peremptory Writ suspends and enjoins any 2008 Project-related activity until the City
7 has reconsidered its approval of the environmental impact report that was the subject of this action,
8 brought it into compliance with the requirements of CEQA, made it consistent with the decision in
9 the matter of the California Court of Appeal, First Appellate District, Case No. A125618,
10 *Communities for a Better Environment et. al. v. City of Richmond*, 184 Cal.App.4th 70 (Apr. 26,
11 2010), and issued a new and valid conditional use permit for such project. This mandate has been
12 satisfied by the City's preparation of a new environmental impact report for the 2014 Project and its
13 adoption of Resolution No. 66-14 and Resolution No. 67-14; the Peremptory Writ should therefore
14 be discharged.

15 The City respectfully requests that this Court set a schedule under which notice of any
16 Objections to this Supplemental Return be filed within 30 days and that, in the absence of
17 Objections noticed during that period, the Court issue an order confirming that the Peremptory Writ
18 has been discharged.

19 The City further requests that, in the event Objections to this Supplemental Return are
20 timely filed, this Court set a hearing date and briefing schedule on a Motion to Discharge the
21 Peremptory Writ to be filed by the City.

22 The City proposes the following schedule for submission of Objections and a Motion to
23 Discharge the Peremptory Writ in the event Objections are timely filed:

24	25	<u>Petitioners' Objections:</u>	To be filed with this Court, and served
26	26		electronically or by overnight delivery on or
27	27		before September 15, 2014, which is 30 days
28	28		after the filing of this Supplemental Return to
			Peremptory Writ of Mandate.

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City's Record/ City's and Real Party's
Opening Briefs:

To be filed with this Court, and served electronically or by overnight delivery on or before October 15, 2014, which is 30 days after receipt of Petitioners' Objections.

Petitioners' Opposition Brief:

To be filed with this Court, and served electronically or by overnight delivery within 30 days after service of the District's Opening Brief (not later than November 15, 2014).

City's and Real Party's Reply Briefs:

To be filed with this Court and served electronically or by overnight delivery within 30 days after service of Petitioners' Opposition Brief (no later than December 15, 2014).

Hearing:

To be set by the Court on a date within approximately two weeks after the Reply Brief is filed. City to notify the court of the need to set a hearing date upon filing of Petitioner's Opposition Brief.

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DATED: August 15, 2014.



Jennifer L. Hernandez
HOLLAND & KNIGHT LLP

Attorneys for Respondents and Defendants
CITY OF RICHMOND