



PLANNING COMMISSION

# AGENDA REPORT

**PLANNING AND BUILDING  
SERVICES DEPARTMENT**

March 20, 2008

**PREPARED BY:** Lamont Thompson, Senior Planner, Planning Department

**SUBJECT:** CONDITIONAL USE PERMIT, DESIGN REVIEW PERMIT AND ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE CHEVRON ENERGY AND HYDROGEN RENEWAL PROJECT (PROJECT NUMBER: CUP/EIR 1101974 and DR 1104423).

**LOCATION:** 841 Chevron Way, Richmond, CA (Assessor Parcel Numbers: 561-040-016; 561-100-003, -001, -003, -008, -009, -010, -011, -012, -013, -017, -020, -025, -026, -029, -034, -035, -036, -036, -037, -038, -040; 561-400-008; 561-410-002; 561-410-003)

**APPLICANT:** CHEVRON PRODUCTS COMPANY, PO Box 1272, Richmond, CA 94802

**AREA:** 2900 +/- Acres

**ZONING:** M-2 Light Industry; M-3 Heavy Industry; M-4 Marine Terminal; and CRR Community and Regional Recreation

**GENERAL PLAN:** 919 Light Industry; 901 Heavy Industry; 908 Recreation Lands

**SPECIFIC PLAN:** None applicable

**CEQA:** Master Environmental Impact Report (State Clearinghouse #2005072117), consisting of a Draft Environmental Impact Report (Volumes 1 and 2) and Final Environmental Impact Report (Volumes 3, 4, and 5) (collectively, "EIR"), per CEQA Guidelines Section 15175 (further details and discussion is contained in Part IV of this report).

**PROPOSAL:**

Chevron Products Company, which owns and operates the Chevron Refinery facility located at 841 Chevron Way in Richmond, California, is requesting Certification of the Environmental Impact Report (EIR), approval of a Conditional Use Permit (CUP) and approval of a Design Review Permit to allow replacement of the existing Hydrogen Plant, Power Plant, and Reformer, and installation of other new associated equipment to increase the Refinery's ability to produce gasoline meeting State of California specifications. The equipment will allow the Refinery facility to use a wider range of crude oil sources than those currently processed at the facility. The new equipment would

improve Refinery reliability, energy efficiency, and add environmental controls. This proposal is known as the Chevron Energy and Hydrogen Renewal Project (Proposed Project).

Through implementation of the Proposed Project, Chevron proposes to replace and upgrade some of its existing manufacturing operations at the Refinery to improve the ability to provide gasoline for local and export markets. The Proposed Project would not increase the Refinery's consumption of crude oil, although upgrades would expand the Refinery's ability to process crude oil with up to three percent sulfur content, which is an increase from the current average sulfur content of 1.7% in crude oil currently processed at the Refinery. The components of the Proposed Project include upgrades that would increase energy efficiency, reduce air emissions, and increase equipment reliability. Specifically, Chevron's objectives for the proposed Project are:

- Replace existing facilities with modern facilities providing improved reliability, energy efficiency, and additional environmental controls;
- To decrease the amount of energy imported by the Refinery;
- Ensure the Refinery's ability to process future crude and gas oil supplies;
- Increase the portion/percentage of the Refinery's total gasoline production that can meet State of California specifications and be distributed to local markets by 300,000 gallons per day, or approximately 6 percent more than current Refinery production levels; and
- Invest in Refinery technological upgrades that produce a competitive return on capital.

Approval of the Proposed Project requires Certification of the Final Environmental Impact Report (Volumes 1-5), and approval of a Conditional Use Permit (CUP) and Design Review Permit by the City's Planning Commission.

### **RECOMMENDED ACTION:**

Staff recommends that the Planning Commission:

1. Hold a public hearing to receive comments on the Project and on the Final Environmental Impact Report (consisting of the Draft EIR dated May 2007 and Final EIR dated January 2008 and accompanying appendices, Volumes 1-5) in Attachment 1;
2. Certify the Final EIR, finding it that it is adequate and complete; that it has been prepared in compliance with the California Environmental Quality Act (CEQA) and the City of Richmond's Guidelines and Procedures for Implementation of CEQA (Resolution Number 125-03, adopted September 23, 2003); and that it reflects the City's independent judgment, based on the analysis, documents, correspondence, and other material which constitute the record of proceedings.
3. Adopt and make conditions of approval all of the mitigation measures identified in the Final EIR and in the CEQA Findings attached to proposed Resolution 08-02 as Exhibit A, including substituting Mitigation Measure 4.3-2a (revised) for Mitigation Measure 4.3-2a identified in the Final EIR;
4. Adopt the Mitigation and Monitoring Program attached to proposed Resolution 08-02 as Exhibit B;
5. Adopt the Zoning Ordinance Findings set forth in proposed Resolution 08-03 and approve combined Conditional Use Permit 1101974 and Design Review Permit 1104423, which is

attached as Exhibit A to proposed Resolution 08-03, subject to the Conditions of Approval listed therein.

6. Direct the City Manager to send a letter to the State Lands Commission requesting that Commission to require that certain conditions of approval related to the Bay Trail, to identifying two ships for "cold ironing", and to the operating temperature of the marine vapor recovery system, be incorporated into the lease renewal for the Long Wharf.

## **BACKGROUND:**

Chevron filed an application on April 6, 2005 with the City of Richmond for the Proposed Project. The Refinery, covering approximately 2,900 acres, has been an active industrial facility for more than 100 years. The majority of Refinery operations occur in the southeastern portion of the San Pablo Peninsula. The Proposed Project area is separated from residential areas to the east by operational portions of the Refinery, Castro Street, light industry, and other uses. To the west and northwest, the Proposed Project area is bounded primarily by open space extending up the San Pablo Peninsula. To the north and northeast of the Project Area are San Pablo Bay and salt marsh areas. (Area maps are found in Draft EIR, Volume 1, p. 3-10, Figure 3-3 and p. 4.9-13, Figure 4.9-3, and in Final EIR, Volume 3, p. 4-65, Figure 4.10-1.)

Comments received during public hearings and meetings held by the City of Richmond since 2005 indicate concerns including: the health effects of ongoing refinery operations, the existing risk of accidents, the possible expansion of refinery operations and associated emissions, odors, flaring, water quality, traffic, and access to and completion of a local segment of the San Francisco Bay Trail. These various concerns are justified. For example, Richmond residents experience a higher-than-average rate of children requiring hospitalization due to asthma. (See Draft Issues & Opportunities Paper # 8: Community Health and Wellness). Since filing the application in 2005, one accident involving a series of fires occurred at the Refinery on January 15, 2007. The industrial history of the City poses significant challenges that affect the health and well being of its current residents, especially vulnerable population groups such as children, elderly, people of color, and low-income households. As required by CEQA, the EIR discusses baseline conditions for each potential environmental impact (e.g., air quality, aesthetics, public health, etc.), and considers the incremental change that would result from Proposed Project.

In addition to City approvals, Chevron must obtain an Authorization to Construct and Permit to Operate from the Bay Area Air Quality Management District ("BAAQMD") for most components of the Proposed Project prior to the receipt of building permits from the City. Staff and the City's EIR consultants have consulted with BAAQMD technical staff numerous times both in preparing the EIR and in developing the recommended conditions of approval relating to air quality. Chevron must also obtain approval for its requested Small Power Plant Exemption from the California Energy Commission. Any changes in the Refinery's National Pollutant Discharge Elimination System ("NPDES") permits will require approval from the San Francisco Regional Water Quality Control Board (the "RWQCB"). At this time, Chevron does not require or propose any changes to its NPDES permits. As part of the Proposed Project review by other agencies having permitting authority, the East Bay Municipal Utility District prepared a water supply assessment and determined that sufficient water will be available to serve the Proposed Project.

## DISCUSSION:

A conditional use permit is an administrative permission for uses not allowed as a matter of right in a zoning district. A conditional use permit is typically required for a use classification having unusual site development features or operating characteristics requiring special consideration so the use may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area.

### I. Zoning Issues:

- *Zoning District:* CRR Community and Regional Recreation. The CRR district is an Open Space and Recreational District that is intended to create, preserve and enhance local, neighborhood, community and regional areas of outstanding scenic, historic and cultural values including parks and related facilities such as swimming pools, playing fields, recreational buildings, trails and associated parking. The CRR district consists of predominantly open land uses which, in the public interest, should retain this character (Zoning Ordinance Section 15.04.420.010).
- *Permitted Uses:* To support existing uses, facilities such as tanks, pipes, blending, packaging, and ancillary and supporting facilities are considered permitted as long as there is no increase in approved capacity program (Zoning Ordinance Section 15.04.420.020).
- *Conditional Uses:* Storage tank farms adjacent to industrial uses (Zoning Ordinance Section 15.04.420.020).
- *Development Standards:* The building height limit of 55 feet in the CRR district does not apply to processing equipment or structures (Zoning Ordinance Section 15.04.420.040).
- *Other Requirements:* Front and side setbacks of at least 40 feet and 20 feet, respectively.

**Discussion of Zoning Issues:** The Proposed Project would involve construction of one storage tank and replacement in the same location of two existing storage tanks in the CRR district. Encroachment of the Proposed Project into the CRR district would not conflict with existing recreational uses or potential future uses such as the Bay Trail. The Bay Trail is not complete in the area of the proposed storage tanks, but Bay Trail advocates propose completing a spur alignment to Point Molate along the shoreline to the west of the Refinery. The proposed tanks would be located adjacent to existing tank facilities on land owned by the Refinery. Because the proposed tanks would be constructed entirely on Refinery property and well away from the public shoreline, the shoreline area would not be directly or indirectly affected. The proposed tanks would not be likely to cause off-site noise, air emissions, or risk to health or safety that would prevent public use of the shoreline and, therefore, would not conflict with the East Bay Regional Park District's Master Plan or the Bay Trail Plan.

In approving a conditional use pursuant to Section 15.04.910 of the Zoning Ordinance, the Planning Commission has the authority to impose such reasonable conditions as it deems necessary to protect the best interests of the neighborhood property or neighborhood and to carry

out the purposes of the Zoning Ordinance and General Plan. Recommended CUP/DR Permit Condition H5 (see Attachment 2, Exhibit A) would ensure that the tanks are screened in a manner consistent with Section 15.04.840 of the Zoning Ordinance. With the attached Conditions of Approval (Attachment 4, Exhibit A), the Proposed Project would be consistent with the Zoning Ordinance. Compliance with the performance standards set forth in the Zoning Ordinance is discussed in more detail in Attachment 4, proposed Resolution 08-03 approving the CUP/DR, which contains detailed findings about each applicable zoning standard.

## II. General Plan Consistency:

- *Existing Land Use Designation:* 908 Recreation Lands
- *Present Land Use:* Open Space
- *Proposed Land Use:* Expansion of Heavy Industry (storage tanks)
- *Consistency with Goals and Policies of General Plan:* The Conditions of Approval (see Attachment 2, Exhibit A) ensure consistency with the following goals and policies:
  - *OSC-O: Preserve, enhance and expand sites for public access to the Bay in accord with the Bikeways and Trails Circulation Plan. Existing and proposed programs and actions designed to meet the policies of Goal OSC-O.*
  - *OSC-O.1: Provide access to shoreline parks by...hiking trails, and biking trails...to ensure that all residents are able to utilize the shoreline parks.*
  - *OSC-O.2: Urge the development of public access points in order to make Richmond's open space visible to large numbers of people.*
  - *OCS-O.4: Provide for maximum feasible access to the Richmond Shoreline.*
  - *OSC-S.3: Encourage development of special facilities to provide public access where ordinary trails and paths are impractical or where free public access would create a safety hazard.*
  - *OSC-S.5: Provide public access where a local or regional trail is planned or located.*
  - *OSC-S.6: Promote the development of regional and local urban trails and collaborate with regional, County, and other local public agencies and with non-profit and private groups to develop urban trails.*

**Discussion of General Plan Consistency:** The Open Space and Conservation Element of the General Plan promotes expansion of public access to the Bay and Shoreline. Completing the Bay Trail improvements from the Long Wharf to the Richmond-San Rafael Bridge Toll Plaza and from the Toll Plaza to Point Molate Beach in accordance with the Association of Bay Area Governments Bay Trail Plan would fully implement the policies of the Open Space and Conservation Element.

In approving a conditional use pursuant to Section 15.04.910 of the Zoning Ordinance, the Planning Commission has the authority to impose such reasonable conditions as it deems necessary to protect the best interests of the neighborhood property or neighborhood and to carry out the purposes of the Zoning Ordinance and General Plan. As conditioned, (See Attachment 4, Exhibit A), the Proposed Project would be consistent with the Goals and Policies of the General Plan.

### III. Conditional Use Permit

The four main components of the Proposed Project (Hydrogen Plant Replacement, Catalytic Reformer Replacement, Power Plant Replacement, and Hydrogen Purity Improvements) would be located in areas designated by the General Plan as *Heavy Industry*, and by the Zoning Ordinance as *M-3 Heavy Industrial*. Although the Refinery property also includes land zoned as M-2, none of the Proposed Project components would be located in the M-2 district. All Project components other than the storage tanks (discussed below) will be located well within Refinery boundary and will be, on average, one-half mile from non-industrial areas of the City. (See Draft EIR, Vol. 1, Figure 3-2, "Locations of Major Components of the Renewal Project" and Figure 3-3, "Chevron Refinery Existing General Features Layout;" see also Final EIR, Vol. 3, p. 3.13-21). These components of the Proposed Project would, therefore, be consistent with both the General Plan land use designation and the Zoning Ordinance for the M-3 district. Proposed new tank construction and/or tank replacement in the Main Tank Field, the Quarry Tank Field, SP Hill Tank Field, Office Hill Tank Field and the Pole Yard Tank Field (see Draft EIR Figure 3-3) could extend beyond the boundaries of areas designated as *Heavy Industry* (901) by the General Plan Land Use Element and *M-3 Heavy Industrial* by the Zoning Ordinance (see Draft EIR Figure 4.9-2 (p. 4.9-9) and Figure 4.9-3 (p. 4.9-13)). Tank construction in these areas of the Refinery could extend into land designated by the General Plan as *Recreation* (908) and as *Community and Regional Recreation* (CRR) by the Zoning Ordinance. These actions require a Conditional Use Permit (CUP) (see Attachment 4, Exhibit A). According to the table in Section 15.04.820.023 of the Zoning Ordinance, a Conditional Use Permit is required to manufacture or store "moderately hazardous materials" in M-3 and M-4 districts. Because the Renewal Project involves such manufacture and storage, the Planning Commission is required to make the Hazardous Materials findings in Section 15.04.820.025.B of the Zoning Ordinance in addition to the Conditional Use Permit findings in Section 15.04.910.050.A.

Chevron has stated that it believes there is an exemption in Section 15.04.820.023.C which applies, and the Hazardous Materials findings are not required; however, staff disagrees with this interpretation of the Zoning Ordinance. The Renewal Project clearly involves construction of new and replacement tanks and equipment that involve manufacture and storage of moderately hazardous materials. The provision cited by Chevron is not an exemption. Rather, it makes these special Hazardous Material provisions of the Zoning Ordinance applicable even when the *only* change to an existing use is an increase in the amount or hazard of chemicals used.

### IV. Design Board Review

In conducting design review pursuant to Section 15.04.930.110 of the Zoning Ordinance, the DRB has the authority to recommend reasonable conditions in order to achieve the purposes of the zoning district in which the project is located; protect the public health, safety, and welfare of the citizens of the City of Richmond; and ensure that the design of the project is compatible with the surrounding area. On January 31, 2008, the Design Review Board (DRB) held a public hearing to consider the design of the Proposed Project. The DRB considered the overall design and appearance of the following Renewal Project components:

- Continuous Catalyst Regeneration ("CCR") Reformer process unit structure
- Cogeneration process unit structure
- Hydrogen Plant process unit structure flare, and control room

- Eight (8) new storage tanks and 10 replacement storage tanks.<sup>1</sup>

At that meeting, the DRB recommended to the Planning Commission conditions specifying how the Renewal Project could be made to comply with Performance Standards contained in Section 15.04.840 of the Zoning Ordinance related to location and color of tanks, screening of mechanical equipment, and landscaping and buffering the facilities on site from neighboring properties.

A copy of the Staff Report provided to the DRB is attached hereto as Attachment 7. An unedited copy of the DRB's recommendation of approval, with proposed conditions, is attached hereto as Attachment 8. Staff-recommended versions of the DRB conditions are proposed in Section H of the Conditions of Approval (Exhibit A to Resolution 08-03), because most of the DRB's recommended conditions were not enforceable as proposed and because legal counsel advised that some of the conditions were outside the scope of the DRB's or City's jurisdiction. The following is a discussion, written in italics, explaining the reasoning supporting staff's recommended modifications to the DRB's proposed conditions. (Editing changes made for clarification that do not change the substance of the condition are not discussed here.)

1. Chevron shall undertake a geotechnical study involve drilling and ground-penetrating radar that will be used to influence the design of the project. The geotechnical study shall include geologic mapping of all sites where proposed work will take place. The maps shall show the physical properties and thickness of sediments, including fill ground; and the depth to ground water. Based upon the results of geologic mapping and data collected by the Association of Bay Area Governments (ABAG), a qualified geotechnical expert shall create models that show the shock effects of several earthquake scenarios. The geological consultant working in conjunction with a hydrologist shall make recommendations to the project's structural engineer about how the proposed project can be designed to safely address the site's physical characteristics, and effects of sea-level rise on shock effects and ground water. The building permit application for each component of the Project shall include these recommendations.

*Staff's recommended modifications to the proposed condition will help staff with enforcement of the proposed condition.*

2. Within one (1) year of the approval of this Conditional Use Permit, Chevron shall dedicate an easement for extending the Bay Trail from Marine Street at Teawksbury to Western Drive on the north side of I-580. The location, terms, and form of the easement shall be subject to approval by the City Council.

*This proposed condition replaces the following four conditions recommended by the DRB:*

- Chevron shall provide the needed public access easement for construction and operation of a Bay Trail segment bordering the I-580 corridor at no cost to the City, within five years after final approval of the Chevron Energy and Hydrogen Renewal Project.
- Chevron shall fund at least 50% of construction design documents and the development of

---

<sup>1</sup> Due to a typographical error, the January 31, 2008 Staff Report to the DRB mistakenly refers to seven new tanks and 11 replacement tanks.

- cost estimates for construction of the portion of the Bay Trail described in Condition 2.
- Chevron shall pay for construction of the portion of the Bay Trail described in Condition 2 and for the incremental cost incurred for maintenance of that portion.
  - The alignment of the portion of the Bay Trail that shall be reviewed by the Design Review Board or the appropriate City of Richmond reviewing body for adequacy, and if found to be acceptable, approval.

*Staff has not included these conditions in its recommended Conditions of Approval (Attachment 4, Exhibit A), but has replaced them with a proposed new condition, set forth above. As explained in the EIR, the Project does not directly interfere with the possible locations of the Bay Trail, and Chevron has testified that allowing public trail access through Refinery tank fields would create a security concern. Thus, there is no Design Review issue related to the use of the site for a new tank. Nevertheless, because construction of a new tank in an area zoned CRR and designated 908 Recreation Lands in the General Plan will decrease lands designated by the City for community and regional recreation and open space, offsetting the Proposed Project's increased burden on these resources by dedicating a Bay Trail alignment in a different location that achieves the recreational purposes of the Bay Trail and does not interfere with Chevron's need to maintain site security is appropriate. Accordingly, staff recommends that the DRB's proposed conditions be revised. In addition, staff recommends that the Planning Commission direct the City Manager to send a letter to the State Lands Commission recommending that agency to require funding and construction of the Bay Trail by Chevron as a condition of approval of its renewal of the Long Wharf Lease (see Attachment 4, proposed Resolution 08-03).*

3. The domes on the new tanks shall be painted darker than the white color shown in the presentation and application to the Design Review Board.

*Staff has not included this condition in its recommended Conditions of Approval (Attachment 4, Exhibit A) because it is concerned that this condition will increase VOC emissions. Darker colors would lead to increased temperature inside the tanks, which would in turn lead to higher VOC emissions.*

4. Chevron shall plant additional trees to increase the screening around the Refinery's perimeter, including around the tanks and equipment that are visible when one is traveling east on Interstate Highway 580.

*Staff has deleted this condition and merged it with DRB-recommended Condition 7, below.*

5. At Chevron's expense, an independent consultant (landscape architect and/or arborist) shall be hired by the City to evaluate the soil at Refinery sites and other Chevron-owned property in Richmond suitable for additional planting and habitat restoration plantings, and recommend substantial additional plantings for the Chevron property including the additional 1.8 acres which Chevron agreed to plant.

*Staff inserted the acreage that Chevron agreed to plant in testimony before the DRB and recommends expanding the condition to include other Chevron-owned property besides the Refinery.*



6. The landscape architect or arborist hired pursuant to Condition 5 shall, at Chevron's expense, prepare a plan to eliminate invasive exotic plants from the Refinery property, including but not limited to broom, pampas grass, fennel, and eucalyptus. The plan shall include replacement of the existing Monterey pines and eucalyptus on the Refinery property with fire-resistant species, as determined by the consultant. 'Quercus species' or appropriate species of native oaks shall be one plant included in this group.

*Staff incorporated additional comments provided by Design Review Board Member Bloom in e-mail comments sent to staff on February 25, 2008 following her review of the draft conditions.*

7. Chevron shall plant groves of trees around the perimeter of the Chevron Refinery including other Chevron property abutting the Refinery site. Some of these tree groves should screen the tanks and equipment that are visible when traveling eastbound on Interstate 580. The groves shall consist of at least four species, including redwoods, in alternating groupings of varying heights and varying growth rates. The plantings shall include broadleaf evergreen plants. The landscape architect and/or arborist hired pursuant to Condition 8 shall advise on these plantings. The landscape architect and/or arborist shall consider the soil conditions, water table (and salinity), wind conditions, and screening of the Refinery which is the primary objective for planting around the perimeter of the Refinery and abutting Chevron property, when selecting the appropriate tree species. On the advice of the landscape architect and/or arborist, Chevron shall treat the soil with nutrients and install an automatic irrigation system prior to planting that will be used to help insure the survivability of the trees. Chevron shall monitor the growth and maintain the irrigation systems in good working order to keep the groves alive. Chevron shall replace any dead or dying tree annually by July 1 of each year.

*Staff added the language from Condition 4, which staff recommends be deleted. Staff's other recommended modifications to the proposed condition will help staff with enforcement of the proposed condition.*

8. To mitigate the Renewal Project's pollution and greenhouse gas emissions, Chevron shall fund the establishment of Richmond's urban forest, including a tree planting program that includes street trees and trees in open spaces and parks, as designated by the Parks and Recreation Department. Chevron shall fund the planting of trees outside the geographic boundaries of the Refinery.

*Staff added this condition after further review of the transcript and at Design Review Board Member Bloom's suggestion.*

9. The Design Review Board or the appropriate City of Richmond reviewing body shall review the proposed planting and habitat restoration plan for adequacy, and if found to be acceptable approval.

*No changes proposed.*

10. Chevron shall remove all of the retired stacks whose functions are replaced or superseded by equipment installed as part of the Renewal Project within one year of shutting down the stacks.

*No changes proposed.*

11. Chevron shall produce 12 megawatts from solar and/or wind energy on the Refinery's site for use at the Refinery or sale to the PG&E's electrical grid.

*Staff recommends that 12 megawatts of alternative energy be inserted into this condition because it is approximately 20% of the Proposed Project's energy production. The use of solar and/or wind energy to produce electricity is unreliable for the Refinery's electrical needs; therefore, staff proposes that alternative energy be used at the Refinery when it is available or sold to PG&E.*

13. Chevron shall execute a Good Neighbor Agreement between the City of Richmond and Chevron. The Good Neighbor Agreement shall include a program related to funding health care for children, and a program related to funding job training.

*Staff did not include this condition in its recommended Conditions of Approval because it is outside the jurisdiction of the Design Review Board and Planning Commission.*

14. Chevron shall appear before the City of Richmond Neighborhood Coordinating Council (RNCC) each year during the months of January and July to provide semi-annual reports about the Refinery, and engage in a dialogue with RNCC about community concerns.

*No changes recommended.*

## **V. Neighborhood Councils:**

All neighborhood councils were notified of the Proposed Project. The Atchison Village, Iron Triangle, Santa Fe, Shields-Reid, and Point Richmond neighborhoods would be most directly affected. Representatives from a variety of environmental community groups such as the West County Toxic Coalition and Communities for a Better Environment, as well as groups such as the East Bay Bicycle Coalition and Atchison Village Mutual Homes Association, trade unions, concerned citizens, and the Mayor of the City of Richmond expressed their concerns with the Proposed Project, in writing and verbally. Detailed responses to all of these comments can be found in the Final EIR, Volume 3, and in the response to late comment letters (Attachment 9).

## **VI. ENVIRONMENTAL REVIEW:**

Following Chevron's application on April 6, 2005, a Notice of Preparation (NOP) of the EIR was filed by the City Planning Department with the State Clearinghouse on June 15, 2005, and notice given of a 30-day public review period ending July 25, 2005. This review period was extended by the City until August 25, 2005, for a total comment period of 71 days. The NOP was assigned the State Clearinghouse Number 2005072117. A public scoping meeting was held on June 23, 2005, at 7:00 pm at Richmond City Hall. During the public scoping period a total of 40 comment letters were received. Concerns raised during the scoping period included water supply, potential local traffic impacts, and access to and completion of a local segment of the San Francisco Bay Trail. A report of the scoping period and comments received is included as Appendix A of the Draft EIR.

The City of Richmond Planning Department, as the CEQA lead agency, prepared the Draft EIR to analyze the significant environmental effects associated with the Proposed Project. The Draft EIR was for public comment on May 11, 2007. The "Notice of Completion and Availability and Notice of Public Hearing for Draft Environmental Impact Report" was published in the Contra Costa Times Newspaper on May 11, 12, and 13, 2007. Public notices were mailed on May 10th. A Press Release was sent to the Media on June 11, 2007. A second round of public notices was sent out to the community on the following dates: The "Notice of Completion and Availability and Notice of Public Hearing for Draft Environmental Impact Report" was published in the Contra Costa Times Newspaper on May 26 and 27, 2007. Public notices were mailed on May 25, 2007. The public review period closed on Monday, July 9, 2007, and was a total of 59 days.

Following the close of the public review period, the City of Richmond Planning Department prepared written responses to the comments received, made revisions to the text of the Draft EIR, and on January 25, 2008 published the Final Environmental Impact Report (Final EIR).

All of the topics in the current CEQA Checklist and other topics pertinent to the Proposed Project were studied: Aesthetics, Visual Quality, Light and Glare; Agriculture Resources; Air Quality; Biological Resources; Cultural Resources; Energy; Geology, Soils, Seismicity and Mineral Resources; Hydrology and Water Quality; Land Use, Plans, and Policies; Noise; Population, and Housing; Public Health; Public Safety; Public Services; Parks and Recreation; Transportation; and Utilities and Service Systems. The impacts and level of significance after mitigation are as follows. Please note that a summary of impacts and mitigation measures Proposed Project is provided in the Final EIR, pages 4-4 through 4-39 (Table 2-1 (REVISED)). In addition to summarizing the EIR's conclusions, the following discussion explains the Conditions of Approval recommended by staff (see Attachment 4, Exhibit A) that will further reduce the effects of the Proposed Project on public health, safety and welfare.

### **Aesthetics, Visual Quality, Light and Glare**

Section 4.1 of the Draft EIR analyzes the Aesthetics, Visual Quality, and Light and Glare effects that would result from the implementation of the Proposed Project and concludes that they would be less than significant.

- The Proposed Project would be constructed within the developed portion of the existing 2,900-acre active area of the Refinery, which has been an active industrial facility for more than 100 years.
- The Proposed Project would not have a substantial adverse effect on a scenic vista and would not substantially degrade the existing visual character or quality of the site and its surroundings.

The construction of the other non-Refinery cumulative projects, together with all of the reasonably foreseeable projects at the Refinery, would reinforce the industrial appearance of the overall complex and the northwest portion of the City of Richmond, as well. The development of the other, non-refinery cumulative projects, such as planned residential and commercial projects in the City of Richmond, including future development according to Richmond General Plan, also would result in changes to City viewsheds in the vicinity of the Refinery and throughout the northwestern portions of the City.

## **Agricultural Resources**

- Construction and operation of the Proposed Project would result in no impacts to agricultural resources. No mitigation would be required. (See Draft EIR, Vol. 1, Section 4.2)

## **Air Quality (Greenhouse Gas Emissions and Flaring discussed separately below)**

Air quality impacts of the Proposed Project are analyzed in the Draft EIR, Vol. 1, Section 4.3 and the Final EIR, Vol. 3, Section 2.5, and pages 4-47 to 4-56. Although the Draft EIR concluded that VOC emissions would be significant and unavoidable, Chevron subsequently agreed to implement Mitigation Measure 4.3-2a. This measure requires that Chevron install domes on two tanks. After mitigation, VOC emissions from the Proposed Project would be less than significant under CEQA standards. Staff has also recommended Conditions C1 and C2 to ensure that the Proposed Project would result in *no net increase* in VOC emissions. Condition G9 also relates to VOC emissions. With respect to other types of air pollution, the EIR concludes: Activities associated with Proposed Project construction would generate short-term emissions of criteria pollutants, including suspended and inhalable particulate matter and equipment exhaust emissions, during the term of Proposed Project construction. This would be a significant impact that would be mitigated to a less than significant level pursuant to Mitigation Measures 4.3-1a, 4.3-1b, and 4.3-1c (see Final EIR, Vol. 3, pages 4-5 to 4-11). Conditions B1, B2 and B3 also address construction emissions.

- Operational impacts from all criteria pollutant emissions would be less than significant pursuant to CEQA standards. To minimize air pollutant emissions from the Proposed Project and the related impacts on public health, staff is recommending Conditions C3, C4, C5, C6, C7, C8, C9, C11 and C13. To ensure that the City is notified of any changes at the Refinery that could impact emissions from the Proposed Project or the analysis in the EIR, staff is recommending Conditions G7, G8, and G12. Finally, staff is recommending Condition G10, pursuant to which Chevron would install and fund BAAQMD operation of ground level monitors within the vicinity of the Refinery capable of providing local air quality data on toxic air contaminants likely to be emitted from the Refinery into the surrounding neighborhoods.
- Depending on the phasing of the commencement of operations of Proposed Project components, operational impacts from particulate matter emissions could result. Mitigation Measure 4.3-3 would ensure that the commencement of operations is phased to mitigate this impact to a less than significant level.
- Operational activities associated with the implementation of the Proposed Project could lead to increases in odorous emissions. The EIR concludes this would be a less than significant impact. However, to ensure that odor impacts do not increase as a result of the Proposed Project, and to protect the public from acutely hazardous hydrogen sulfide (H<sub>2</sub>S) emissions, staff is recommending conditions C4 and C9.

## **Flaring**

As described in more detail, below, in the subsection summarizing “Comments Received” on the Proposed Project, the public is concerned that a potential increase in the frequency and magnitude of flaring would increase the amount of VOC and sulfur compounds (including the toxic contaminant H<sub>2</sub>S) released into the air. Severe asthma attacks, migraines, rashes, and eye irritation are the commonly reported symptoms of people living downwind from a refinery during a flaring event. The BAAQMD is cited by community members as stating that flaring is acceptable

only in emergencies. There is a belief that Chevron uses flares more often than in emergencies, and that Chevron is increasing flaring as other refineries are decreasing such events.

The Draft EIR analyzed flaring on page 4.3-31 and pages 4.10-21 to 4.10-32. In response to public comments, an expanded discussion appears in the Final EIR, Section 2.7. The EIR concludes that flaring is not expected to increase as a result of the Proposed Project. Because this conclusion assumes proper implementation of the Flare Minimization Plan, and there is a degree of uncertainty as to how the change in crude slate resulting from the Proposed Project will affect uncontrolled releases of the criteria pollutants (see DEIR Table 4.3-3), and Toxic Air Contaminants (see DEIR Table 4.12-2) emitted by the Refinery's flare. Staff is recommending Conditions D1-D10 to address flaring. Several of these conditions are also discussed below, under Public Health.

#### March 6, 2008 Letter from the Attorney General's Office

The City received a letter from the Attorney General's Office dated March 6, 2008 containing comments on the Final EIR. Chevron's March 10, 2008 response to the Attorney General's letter is Attachment 11 to this staff report. Among other issues raised, the Attorney General's letter states that the EIR's reliance on compliance with the FMP for the Proposed Project is premature, and that the method by which flaring at the Refinery would be reduced with implementation of the Proposed Project is neither specified nor detailed and that the FMP has not been updated to include the Proposed Project.

Master Response 2.7 in Volume 3 of the Final EIR provides additional information regarding Chevron's existing flares, details about Chevron's FMP, and the steps taken by Chevron to meet the requirements of BAAQMD Regulation 12, Rule 12. This discussion applies to the existing Refinery. Additional information also is presented in Master Response 2.7 about the recent flaring history for the existing Refinery flares. The Master Response also explains, in more detail than the Draft EIR, the changes to the Refinery that are expected with implementation of the Proposed Project. In Section 2.7.3 of the Master Response, the Final EIR acknowledges that the FMP would be updated after the Proposed Project is approved by the City as part of the BAAQMD's air permitting of the Proposed Project components. It would be premature to update the FMP until the BAAQMD's permitting process has concluded. Section 2.7.3 lists those components and features of the Proposed Project that would lead to reductions in flaring at the Refinery. The expected reduction in flaring cannot be specifically quantified because flares are used as safety devices for unanticipated refinery process upsets as well as planned flaring. Although staff cannot predict with certainty the future of flaring at the Refinery, data provided by Chevron's consultant Mark Piersante to the City on March 12, 2008 show that since the Refinery has begun implementation of the BAAQMD-approved FMP, SO<sub>2</sub> emissions from unplanned flaring events decreased from 16.56 tons of SO<sub>2</sub> in 2006 from "malfunctions" to 0.88 in 2007.

#### **Greenhouse Gas Emissions**

The following discussion appears in the Final EIR, Volume 3, pages 2-22 through 2-26, and pages 4-56 through 4-59.

## Quantification of Project-Related Greenhouse Gas Emissions

Project-related GHG emissions are reported in Table 4.3-11 of the Draft EIR. Since publication of the Draft EIR, the City has continued to explore the reporting of these emissions with Chevron. As a result some additional clarifying information on GHG emissions is available and is reported in the following discussion.

Chevron has reported to the City that its total existing Refinery equivalent carbon dioxide emissions ("CO<sub>2</sub>e") for the year 2004 through 2006 was reported to the California Climate Registry as 13.1 million metric tons per year. As stated on page 4.3-8 of the Draft EIR, the CEC reported that in 2004 the total estimated CO<sub>2</sub>e for the state was 492 million metric tons. Chevron also reports that as a corporation, its global CO<sub>2</sub>e emissions in 2006 were estimated as 61.9 million metric tons. In comparison, the US EPA has estimated that 34,500 million metric tons of CO<sub>2</sub>e were released world wide in 2005.

The Draft EIR reported emissions primarily in terms of CO<sub>2</sub> emission, rather than CO<sub>2</sub>e because, as stated on page 4.3-39, emissions of other the other five GHGs are expected to be minimal. The City requested that Chevron provide a more detailed characterization of potential project-related emissions for all six greenhouse gases addressed by the Kyoto protocol. Chevron has reported that the Refinery does not, and would not after completion of the Proposed Project, emit hydrofluorocarbons (HFC), perfluorocarbons (PFC), or sulfur hexafluoride (SF<sub>6</sub>). Chevron has estimated (Chevron, 2007) that emissions of methane (CH<sub>4</sub>) and nitrous oxide (N<sub>2</sub>O) would be less than 0.1 percent CO<sub>2</sub>e of the CO<sub>2</sub> emissions reported in Table 4.3-11 of the Draft EIR. The City's technical consultants reviewed the information provided by Chevron and determined that it was accurate. Consequently, although the GHG emissions reported in Table 4.3-11 only included CO<sub>2</sub> emissions, this was a reasonably accurate estimate of the Refinery's overall GHG emissions.

Some commenters questioned the meaning of the two sets of GHG numbers reported in Table 4.3-11, namely the "expected utilization" and "maximum potential" GHG emissions. The authors' intention in Table 4.3-11 was to show the difference between the amount of GHG emissions that would result with the Proposed Project in place and: 1) if the new Hydrogen Plant were to be operated to supply only the hydrogen needed to serve the Refinery (the "Expected Utilization" case), or 2) if the new Hydrogen Plant were to be operated at full capacity, in which case more hydrogen would be produced than the Refinery could use (the "Maximum Potential" case). In the latter case, since excess hydrogen cannot be stored, that excess hydrogen would have to be exported, possibly through the proposed Praxair hydrogen pipeline that is currently being evaluated by Contra Costa County. On the other hand, if a hydrogen pipeline is not built, the new Hydrogen Plant would be constrained to operate at production level necessary to supply only the needs of the Refinery. In the interest of clarifying the estimated amount of all potential GHG emissions, and to avoid confusion, Table 4.3-11 has been revised to show only the maximum potential emissions figure (898,000 metric tons per year) as the estimate of future operational CO<sub>2</sub>e, and the range of estimates has been deleted.

## CEQA Analysis Framework

At the present time, no rules or regulations have been adopted by CARB, OPR, the Resources Agency, or other agency applicable to the Proposed Project that define a “significant” amount of GHG emissions, and there are no applicable facility-specific GHG emission limits or caps. As discussed below, the BAAQMD noted in its comments on the Draft EIR that it has not yet established thresholds for greenhouse gas emissions. (BAAQMD, 2006d, as cited in Draft EIR Section 4.3 References.) At the time of this writing, no air districts within California have established emission thresholds for determining the significance of GHGs from industrial sources.

Determining the “significance” of GHG emissions also presents difficulties because a rational methodology must recognize that a project analyzed in an EIR typically is local in nature, but the effects of GHG emissions are global in effect. Hence, for GHGs the Proposed Project may have a “ripple” of effects beyond the Proposed Project area that extend to the City, County, State, the Country, and the globe.

### Impact and Significance of GHGs

As stated on page 4.3-24 of the Draft EIR, the BAAQMD (which is a Responsible Agency for the Proposed Project) noted in its comments on the administrative Draft EIR in December 2006 that it had not (and still has not) determined levels of significance for GHG emissions, but requested that the EIR quantify GHG emissions even though it may not be possible to make a conclusion about the significance of the emissions or require mitigation measures. This request was stated as follows (BAAQMD, 2006d):

Include in the DEIR (§4.3 Air Quality) discussion and quantification (including underlying assumptions and calculations) of greenhouse gas emissions. Also, include in this section GHG emissions that will result from the increased energy production and consumption discussed in section 4.6.4 (pages 4.6-8 – 4.6-12). We understand that this discussion will not conclude with a significance determination nor require mitigation measures since the District has not yet established thresholds for greenhouse gas emissions. Its purpose is to disclose to decision makers and the public the level of greenhouse gas emissions that will be generated by the project.

In response to the BAAQMD’s comment, the Draft EIR presented quantified GHG emissions based on available data for the Refinery submitted to the California Climate Action Registry (Registry) by Chevron. These data, submitted to the Registry by Chevron, were developed through protocols involving measurement and calculation of GHG. AB 32 requires CARB to incorporate these protocols in to the state’s new mandatory GHG emissions reporting program to the extent feasible. As discussed above, CARB has just published its proposed reporting program details and the first report for 2008 emissions is due in April 1, 2009.

The City agrees with the commenters that the Proposed Project will have an impact on GHG emissions and that global warming is a serious environmental problem that will have effects locally in Richmond as well as around the world. Consistent with the BAAQMD’s recommendation, the

City has presented an estimate of the maximum potential increase in CO<sub>2</sub> emissions that would result from the Proposed Project. (The Final EIR has also addressed other types of GHG emissions in this Master Response.) The EIR estimates that Proposed Project could emit up to 898,000 additional metric tons of GHGs annually.

While AB 32 sets ambitious goals for reducing greenhouse gas emissions statewide, the City does not interpret this to mean that *any* increase in CO<sub>2</sub> resulting from a proposed project is a significant effect on the environment for purposes of CEQA. SB 97 directs OPR to establish draft CEQA guidelines for the mitigation of GHG in CEQA documents by July 1, 2009, and adopt final guidelines by the beginning of 2010. AB 32 also directs CARB to develop standard mitigation measures that local agencies can apply to projects to mitigate impacts from GHG. Development of these measures is still underway, and even then OPR may not have adopted a significance threshold. Given the lack of any guidance on accepted significance thresholds for GHG emissions, and the fact that policy decisions as to the relationship between CEQA and AB 32 have not been made, the City believes that making a significance determination with respect to GHG at this time would be speculative. Although the significance of the Proposed Project's GHG emissions cannot be determined at this time, in order to reduce the effect on the environment from these emissions, and in view of the requirement of AB 32 to reduce GHG emissions to 1990 levels by the year 2020, the City now believes that mitigation measures should be implemented.

The City has assumed that the Proposed Project will produce the "maximum potential" GHG emissions and has identified mitigation measures to reduce these emissions such that there would be no net increase in GHG emissions from the Proposed Project, as discussed below. This approach is consistent with the City's aim of developing and implementing a comprehensive policy to creatively and aggressively lead by example in the fight to end global warming and to adopt AB 32's benchmarks as a citywide goal (see City of Richmond resolution 204-97). The City's approach to GHG mitigation focuses on making reductions to local sources of GHG. Local GHG reductions can provide collateral local air quality and public health benefits because many sources of GHG emissions are also sources of criteria pollutants and toxic air contaminants (TAC). Therefore, reduction of local sources of GHG typically will provide collateral reductions in local sources of criteria pollutants and TACs and will result in associated air quality and public health benefits to the residents of Richmond.

CEQA 15151 establishes the standards of adequacy for an EIR:

"An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure."

CEQA 15151 clearly states that the standard of adequacy is what is "reasonably feasible." With the current lack of state policy guidelines, and the difficulties discussed above, determining whether



the Proposed Project's contribution to global warming is "significant" would not be reasonably feasible. Instead, the City conservatively estimated the increase in GHGs as a result of the Proposed Project if no mitigation measures were applied, and has identified mitigation measures such that the level of GHGs emitted by the Refinery would not increase following implementation of the Proposed Project.

#### GHG Emission Mitigation Measures

The following text is inserted at the end of page 4.3-40 of the Draft EIR to add the following new mitigation measures:

**Impact 4.3-5: Operation of the Proposed Project has the potential to increase the Refinery's output of greenhouse gases by 898,000 metric tons CO<sub>2</sub>e. This increase will have an effect on the environment, but the significance of this effect cannot be determined at this time because of a lack of applicable standards. This impact is considered speculative.**

Chevron shall implement the following mitigation measures to reduce the operational effects of the Proposed Project such that the Proposed Project would not increase total greenhouse gases emissions:

**Mitigation Measure 4.3-5a:** Within one (1) year of approval of the Conditional Use Permit, the City shall hire, and Chevron shall fully fund, a qualified independent expert ("Expert") to complete an inventory of greenhouse gas or greenhouse gases ("GHG") emitted from the Refinery. The Expert shall prepare an inventory protocol, subject to the City's approval. The City shall provide a copy of the proposed protocol to Chevron for review and comment prior to its approval. The inventory shall be calculated in accordance with the methodology set forth in the California Air Resources Board's ("CARB") Proposed Mandatory Greenhouse Gas Reporting Regulation (at the present time this shall be the October 19, 2007 version; however, the most current version shall be used including any subsequently adopted final regulation, as applicable at the time the inventory is conducted). Chevron and the City shall reasonably agree upon the selection of the Expert. If agreement cannot be reached, the Executive Officer of the Bay Area Air Quality Management District ("BAAQMD") shall select the Expert.

As used in Mitigation Measures 4.3-5a through 4.3-5g, GHG emissions shall include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, as defined in Health and Safety Code section 38505(g). GHG may be expressed as individual gases or as CO<sub>2</sub> equivalent ("CO<sub>2</sub>e"). The inventory shall be conducted to identify and quantify sources of these emissions and to identify potential emissions reduction opportunities at the Refinery. Chevron shall take the inventory information into consideration as part of its strategy to implement mitigation measures 4.3-5b through 4.3-5f, California Health & Safety Code, Division 25.5, sections 38500, et seq., the California Global Warming Solutions Act ("AB 32"), and regulations, polices and guidance implementing AB 32. The inventory quantities of GHG shall be expressed in units of metric tons or metric tons per year.

**Mitigation Measure 4.3-5b:** The operation of the Proposed Project shall result in no net increase in GHG emissions over the Proposed Project baseline. The Proposed Project GHG baseline emission level is defined as the annual emissions of GHG from all existing process units of the Refinery that will be modified or replaced under the Proposed Project, determined in the Master

EIR to be 1,731,000 metric tons CO<sub>2</sub>e per year as set forth on Table 4.3-11 (Revised) of the Final EIR. The Expert hired pursuant to Mitigation Measure 4.3-5a shall prepare, subject to approval by the City, a protocol for Chevron's annual reporting of GHG emissions from Proposed Project sources for purposes of determining any net increase in GHG emissions over the baseline and for purposes of complying with Mitigation Measure 4.3-5f. In developing the protocol, the expert shall consider factors such as proposed emissions sources, flow meters and fuel compositions for combustion sources, and process variables for process emissions. The City shall provide a copy of the proposed protocol to Chevron for review and comment prior to its approval.

**Mitigation Measure 4.3-5c:** To ensure no net increase of GHG emissions over the annual baseline identified in Mitigation Measure 4.3-5b, GHG reductions shall be achieved prior to the time that GHG emissions from the Proposed Project would exceed the Proposed Project GHG baseline in an amount equal to or exceeding the amount such GHG emissions would exceed the baseline, and shall conform to the GHG reduction plan approved by the City pursuant to Mitigation Measure 4.3-5e. Chevron shall demonstrate that the GHG reductions undertaken to achieve no net increase over the Proposed Project GHG baseline are real, permanent, quantifiable, verifiable, and enforceable consistent with Health and Safety Code section 38562. CO<sub>2</sub>e emissions from sources that are displaced to another geographic location shall not be considered reductions for purposes of Mitigation Measures 4.3-5a through 4.3-5g. Emission increases and emission reductions shall be calculated in accordance with the methodology set forth in the CARB Proposed Mandatory Greenhouse Gas Reporting Regulation (the October 19, 2007 version, the then current draft, or any subsequently adopted final regulation, as applicable at the time the calculations are made).

**Mitigation Measure 4.3-5d:** Chevron shall notify the Planning Department six (6) months in advance of the time that GHG emissions from hydrogen production are anticipated to exceed 921,000 metric tons CO<sub>2</sub>e per year as set forth in the Expected Utilization case in Table 4.3-11 of the Draft EIR. The Expert hired pursuant to Mitigation Measure 4.3-5a shall recommend a method for determining when this report must be made. The Expert shall consider factors such as those listed in Mitigation Measure 4.3-5b for the annual reporting protocol.

**Mitigation Measure 4.3-5e:** No later than one (1) year after approval of the Conditional Use Permit, Chevron shall submit to the City, for approval, a plan for achieving complete reduction up to the maximum estimated Proposed Project GHG emission increase over the baseline (898,000 metric tons per year as set forth in Table 4.3-11 (Revised) of the Final EIR). The plan shall identify "local" GHG reductions, meaning reductions within the City of Richmond, before considering other reductions. The actions taken to reduce GHG emissions shall be implemented in the following order of priority, such that the earliest reductions (first priority) are taken on Chevron Richmond property; the next reductions (second priority) are taken within the City of Richmond; the next reductions (third priority) are taken within the area subject to the jurisdiction of the Bay Area Air Quality Management District; and the next reductions (fourth priority) are taken within the State of California or are consistent with CARB requirements for GHG emissions reductions. The plan shall consider implementation of measures that achieve GHG reductions including, but not limited to, the following measures:

- GHG reduction measures recommended by the CARB for California refineries.

- Engage energy efficiency engineers to conduct a thorough audit of fuel, electricity and natural gas use at the Refinery to identify potential energy savings and energy efficiency improvements, and implement those feasible measures identified.
- Replace stationary, non-emergency diesel internal combustion engines.
- Retrofit or replace old process heaters to use new high efficiency burners, oxyfuel (use of oxygen instead of air), advanced controls, and/or more heat recovery.
- Add/improve heat exchangers.
- Replace existing CoGens with higher-efficiency units, or add CoGen units.
- Replace stationary, non-emergency internal combustion engines with high efficiency electric motors.
- Implement process efficiencies (e.g., control fouling in crude unit preheater train).
- Install cold ironing facility at Chevron Long Wharf and/or Port of Richmond.
- Initiate carbon sequestration, capture and export.

**Mitigation Measure 4.3-5f:** Chevron shall submit to the City an annual report on Proposed Project GHG emissions for the preceding calendar year on or before March 15 of the following year, and a copy of the mandatory GHG emissions report submitted annually to CARB, at the same time it is submitted to CARB, so that the City can monitor Chevron's compliance with the foregoing mitigation measures.

**Mitigation Measure 4.3-5g:** On or before March 15 of each year, Chevron shall file a written report with the Planning Department describing its progress in achieving GHG reductions consistent with AB 32 requirements, as they are promulgated, for achieving future reductions. With prior approval from the City, a copy of state-required reporting under AB 32 may satisfy this condition.

**Conclusion:** The Proposed Project would have no effect on GHG emissions because there would be no net increase after mitigation.

Conclusions:

The City has made a good faith effort to fulfill its obligations under CEQA by identifying and disclosing what is known about the Proposed Project's GHG emissions and the status of existing CEQA guidance. The Final EIR has provided additional clarifying information regarding the Proposed Project's GHG emissions, but did not disclose any new or substantially more severe significant effects on the environment. Mitigation Measures 4.3-5a through 4.3-5g would avoid any impacts associated with GHG emissions by the Proposed Project. Therefore, recirculation of the EIR is not required.

#### March 6, 2008 Letter from the Attorney General's Office

As stated above, the City received a letter from the Attorney General's Office dated March 6, 2008 containing comments on the Final EIR. Much of the letter concerns the GHG analysis in Master Response 2.4 and new Mitigation Measures 4.3-5a through 4.3-5g. The letter acknowledges the City's precedent setting mitigation, which would allow no net increase of GHGs due to the Proposed Project. The letter also questions the following aspects of the GHG analysis and mitigation program. Summary responses are provided below, and Chevron's responses are set forth in Attachment 11.

1. Making a Significance Finding for GHG Emissions.

The Attorney General's Office correctly states that a lead agency should, normally determine the significance of environmental impacts (See CEQA Guidelines § 15064), but this determination is bounded by the Guideline which states that the lead agency should not engage in speculation in an EIR. (See CEQA Guidelines § 15145 ["If, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate the discussion of impact"].) Because no thresholds of significance have been established for determining the significance of GHG emissions, either by CARB, the BAAQMD or any other air quality agency, or the Secretary of Resources, the City may find that determining the significance of GHG emissions from the Proposed Project would be speculative. This approach was recommended by the BAAQMD in its comments on the Administrative Draft Environmental Impact Report. (BAAQMD electronic mail communication, December 20, 2006 [cited in the Draft EIR, Section 4.3 as BAAQMD 2006d])

Although the EIR does not come to a significance conclusion, it fully analyzes the impacts of GHG emissions, quantifies the emissions, and recommends seven mitigation measures that would ensure that the Renewal Project will not result in any increase in GHG emissions. Finally, the CEQA Findings conclude that the impact would be avoided, as required under Public Resources Code sections 21002.1 and 21081.

The Planning Commission may, however, determine that the impact would be significant prior to mitigation. In that case, the GHG portion of the EIR, arguably, would need to be recirculated pursuant to CEQA Guidelines section 15088.5(a)(1), which states that a Draft EIR must be recirculated if "significant new information" is added to the EIR showing that there will be "a new significant environmental impact" resulting from the project.

2. Adequacy of Mitigation Measures.

The Attorney General's Office states that the GHG mitigation measures are legally inadequate because they lacked sufficient public review, and are too vague and general. Staff disagrees with all of these comments. First, regarding public review, the Final EIR, which contains Mitigation Measures 4.3-5a through 4.3-5g was released to the public on January 25, 2008.

Second, regarding the adequacy of the mitigation measures, the approach employed in these measures – specifying a performance standard (in this case, no net emissions) and listing a menu of possible implementation measures – has been upheld numerous times by the courts. (See, e.g., *Sacramento Old City Assn. v. City Council* (1991) 229 Ca.App.3d 1011, 1027; *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4<sup>th</sup> 1261, 1275; *Endangered Habitats League v. County of Orange* (2005) 131 Ca.Ap.4<sup>th</sup> 777, 794. The mitigation measures clearly require emissions to be reduced at the Refinery and in the City of Richmond as the *first* and *second* priorities, respectively, and the mitigation plan identifying the specific sources that will be shut down or retrofitted must be made to the satisfaction of the City. (See Mitigation Measure 4.3-5e.) The statement that the GHG reduction measures (i.e., shutting down and retrofitting sources of emissions) will have significant environmental impacts of their own is not based on any evidence, and seems unlikely. Nevertheless, to the extent that the mitigation program approved by the City would have significant effects on the environment, pursuant to CEQA Guidelines sections 15162 and 15163 that would

constitute a change in the project for which subsequent or supplemental environmental review would be required.

Finally, with regard to the statement that the enforcement and monitoring of the mitigation measures is inadequate, again, no evidence is presented. By their terms, the plans called for in Mitigation Measures 4.3-5a through 4.3-5g must be approved by the City with the advice of a qualified expert. As for all of the mitigation measures adopted by the Planning Commission, implementation of Mitigation Measures 4.3-5a through 4.3-5g would be monitored by means of a Mitigation Monitoring and Reporting Program (See Exhibit B to proposed Resolution 08-02 in Attachment 3) adopted by the Planning Commission pursuant to Public Resources Code section 21081.6(a)(1).

### **Volatile Organic Compounds Emissions**

The following discussion appears in the Final EIR, Volume 3, pages 2-31 through 2-34.

#### VOC Emissions

At the time of this writing, Chevron has not yet submitted permit applications for the storage tanks that are included as part of the Proposed Project, but they would be subject to BAAQMD rules and regulations. However, for purposes of the City's CEQA review, estimated fugitive emissions for the storage tanks are included in the EIR analysis. The Draft EIR showed that the proposed new and replacement storage tanks would result in long-term emissions of volatile organic compounds (VOC) equal to 16.2 tons per year, which would result in total net emissions above the BAAQMD's threshold for project operations. At the time of the preparation of the Draft EIR, Chevron indicated to the City that it had no available contemporaneous VOC emission reduction offsets that could be used to mitigate this significant impact to a less than significant level. Therefore, the Draft EIR identified Proposed Project operational VOC emissions as significant and unavoidable.

Subsequent to the release of the Draft EIR, Chevron has agreed to implement a mitigation measure that requires installation of dome enclosures on the two proposed tanks that would emit the most VOC, Tanks T-954 and T-3228. Mitigated fugitive VOC emissions that would be associated with Tanks T-954 and T-3228 have been estimated using US EPA's TANKS 4.0.9d emissions model (see Appendix D detailed emissions reports). Estimated VOC emissions reductions from installing domes over these two tanks would result in a combined 11.7 tons/year (64 pounds/day) VOC emissions reduction. The new storage tank requirement combined with the revised firing rate emission estimates (see Section 2.5.1, above) would mitigate the potentially significant impact to a less-than-significant level.

To reflect the proposed tank dome and firing rate mitigations, the text of the summary for Section 4.3, page 4.3-1, is revised as follows:

There would be a significant but mitigable impact resulting from emissions of volatile organic compounds from the Proposed Project.

- Activities associated with Proposed Project construction would generate short-term emissions of criteria pollutants, including suspended and inhalable particulate matter and equipment exhaust emissions, during the term of Proposed Project construction. This would be a significant impact that would be mitigated to a less than significant level.
- Operational activities associated with the implementation of the Proposed Project would increase air pollutant emissions of volatile organic compounds by potentially significant quantities. This impact would be significant but would be mitigated to less-than-significant levels. To reflect the proposed tank dome and firing rate mitigation, the text of Impact 4.3-2 is revised as follows:

**Impact 4.3-2: Operational activities associated with the implementation of the Proposed Project could increase air pollutant emissions. Operational emissions from the Proposed Project would be less than significant with the exception of project related VOC pollutant emissions, which would be significant and unavoidable.** To reflect the required tank dome and firing rate mitigation, the text of the *Summary* discussion of Impact 4.3-2 is revised as follows.

### **Summary**

Total emissions of NO<sub>x</sub>, SO<sub>2</sub>, CO, PM, and ROG (as VOC) from Proposed Project operations (daily and annual) and the significance thresholds established by the BAAQMD are presented in Tables 4.3-9 and 4.3-10. These summaries include the Proposed Project operations' on-site stationary source emissions as well as the mobile source (off-site motor vehicle activities) emissions, and compares them to the thresholds of significance. Through the addition of air pollution controls and other concurrent process changes, the net effect of the Proposed Project would be to make substantive reductions of NO<sub>x</sub>, and SO<sub>2</sub>, and PM emissions compared to existing conditions and the net increase of CO and PM emissions would be below the significance thresholds. However, total VOC emissions would be above the BAAQMD significance thresholds.

Since the release of the Draft EIR, Chevron has agreed to implement a mitigation measure that requires installation of dome enclosures over Tanks T-954 and T-3228. Installation of domes over floating roof tanks would result in emission reductions by blocking wind from directly contacting the tanks. Mitigated fugitive VOC emissions that would be associated with Tanks T-954 and T-3228 have been estimated using US EPA's TANKS 4.0.9d model (see Appendix D (REVISED) detailed emissions reports). Estimated VOC emissions reduction from installing domes over these two tanks would be 4.9 tons/year for T-954 (resulting in net new emissions of 1.1 tons/year), and 6.8 tons/year for T-3228 (resulting in net new emissions of 1.2 tons/year). This represents a combined 11.7 tons/year (64 pounds/day) VOC emissions reductions. The new storage tank mitigation requirement (see Mitigation Measure 4.3-2a, below) combined with the reductions associated with the revised firing rates would reduce the significant VOC impact to less than significant. To ensure that emissions reductions associated with the revised firing rate calculations are realized, the City has formalized the firing rates as a mitigation requirement (see Mitigation Measure 4.3-2b, below).

Therefore, Proposed Project operational emissions of VOC would be significant and unavoidable mitigated to a less-than-significant level, and emissions of NO<sub>x</sub>, SO<sub>2</sub>, CO, and PM pollutants would be less than significant.

After the publication of the Final EIR, staff met with BAAQMD staff, which suggested changes to new Mitigation Measure 4.3-2a, as published in the EIR. Accordingly, staff recommends that the Planning Commission substitute Mitigation Measure 4.3-2a (revised), set forth below, which will be equally as effective as Mitigation Measure 4.3-2a identified in the Final EIR:

**Mitigation 4.3-2a:** Chevron shall equip external floating roof tanks T-954 and T-3228 with domes. The floating roof of each tank shall comply with the standards of the most current BAAQMD BACT for external floating roof tanks. Use of the tanks shall not be permitted until Chevron has demonstrated to the satisfaction of the Planning and Building Services Department that the necessary equipment has been installed. In addition:

- (i) Chevron shall ensure that the concentration of organic vapor in the vapor space above the floating roof within the dome does not exceed 30% of its lower explosive limit (LEL);
- (ii) Chevron shall conduct quarterly visual seal inspections, and measure the concentration (%LEL) of the vapor space above the floating roof within the dome beneath each viewport with an explosimeter. Chevron shall equip each dome with at least three (3) viewports;
- (iii) Chevron shall maintain a BAAQMD approved quarterly log of the LEL for each material stored, all concentration measurements (from each view port), and the record of each visual seal inspection. This log shall be retained on site for at least five (5) years from the date of entry, and shall be made available to City and BAAQMD staff upon request; and
- (iv) If Chevron determines that either tank T-954 or T-3228 is in violation of these conditions or applicable BAAQMD rule(s) during the quarterly inspections, Chevron shall submit a written report to the BAAQMD and Planning and Building Services within one hundred twenty (120) hours of the determination of non-compliance, which report shall indicate the corrective actions taken to achieve compliance.

**Mitigation Measure 4.3-2b:** Prior to operating the following Proposed Project equipment, Chevron shall confirm to the City that the permit conditions for the Renewal Project BAAQMD Authority to Construct contain the following firing rate limits:

- For each new Hydrogen Plant furnace (BAAQMD Source Nos. S-4471, S-4472): 920 million BTU per hour rolling twelve-month average.
- For the new CCR furnaces combined total (BAAQMD Source Nos. S-4477, S-4478, S-4479, S-4480): 500 million BTU per hour rolling twelve-month average.
- For the new Cogeneration gas turbine generator and duct burner combined total (BAAQMD Source Nos. S-4473, S-4474): 840 million BTU per hour rolling twelve-month average.

**Significance after Mitigation:** Less than Significant.

Staff added Conditions C1 and C2 to ensure the Proposed Project would result in no net new VOC emissions.

March 6, 2008 Letter from the Attorney General's Office

As stated above, the City received a letter from the Attorney General's Office dated March 6, 2008

containing comments on the Final EIR. The letter states that the Final EIR does not support the conclusion that the VOC emissions from the Proposed Project would be mitigated to a less-than-significant level by proposed Mitigation Measures 4.3-2a and 4.3-2b. These mitigation measures would require Chevron to install specific emissions control equipment (e.g., installation of domes) on two identified tanks and would require the use of specific firing rate limits in order to reduce significant VOC emissions levels to less than significant.

Installation of domes over floating roof tanks results in emissions reductions by blocking wind from directly contacting the tanks. The effectiveness of installing domes over floating roof tanks as a method of reducing VOC emissions is established in United States Environmental Protection Agency (USEPA)'s *Compilation of Air Pollutant Emission Factors* (AP-42). The VOC emissions reductions identified in the Final EIR that would be associated with the dome installations requirements of Mitigation Measure 4.3-2a were estimated using TANKS, a computer software program that estimates VOC emissions from fixed- and floating-roof storage tanks. TANKS is based on the emissions estimation procedures from Chapter 7 of USEPA's AP-42 and is designed for use by local, State, and federal agencies, environmental consultants, and others who need to calculate air pollutant emissions from organic liquid storage tanks.

The intent of Mitigation Measure 4.3-2b is to ensure that the new firing rate assumptions used to calculate the emissions presented in the Final EIR Tables 4.3-9 REVISED and 4.3-10 REVISED are identified as limits in the BAAQMD permit conditions for the project. This would make certain that the emissions reductions associated with the proposed less polluting burning rates are realized during the operations of the Renewal Project.

## **Crude Slate**

### March 6, 2008 Letter from the Attorney General's Office

As stated above, the City received a letter from the Attorney General's Office dated March 6, 2008 containing comments on the Final EIR. The letter correctly cites Master Response 2.2, Volume 3 of the Final EIR for the propositions that there is no expected change to range of specific gravity of the Refinery crude slate and that the Proposed Project does not provide any way for the Refinery to process a heavier crude slate. The only expected change to the crude slate is that it would include crude oil with higher sulfur levels, on average, than that which is currently processed at the Refinery. The Proposed Project is specifically designed to ensure that the additional sulfur in the crude slate does not result in additional SO<sub>2</sub> emissions released to the community. Accordingly, because the EIR adequately analyzes the air quality impacts (criteria pollutants and toxic air contaminants) from the Proposed Project, which would include the emissions to the air from processing crude oil, there is no additional significant impact related to crude slate that has not been covered. Because the EIR identifies mitigation measures for all significant air quality impacts, no mitigation measures that would limit the crude slate for the Refinery are required to lessen air quality impacts to a less-than-significant level. Nevertheless, staff agrees that there is some uncertainty as to whether the crude oil that will be processed at the Refinery in the future will result in harmful emissions, even if those emissions are below CEQA significance thresholds. In response to community concern about this issue, staff is recommending several conditions of approval addressing the crude slate (D2, D3 & D4). If the results of the studies and monitoring recommended in these conditions show that the Proposed Project does in fact result in unhealthy or otherwise harmful emissions, Chevron will be required to take corrective action.



## **Biological Resources**

The Draft EIR, Vol. 1, Section 4.4 analyzes the Proposed Project's potential impacts on biological and concludes that they would be less than significant.

- Proposed sites for Proposed Project components are within currently developed areas of the operating Refinery that do not provide potential habitat for special status species. Proposed Project components are separated from the San Pablo Bay and salt marsh features by the Refinery operational area and from the San Francisco Bay by Interstate 580. Placement and construction of project components will have no impact on biological resources.
- Potential impacts to special status fisheries could result if additional wastewater or pollutant discharges into the Bay were to occur. The State Implementation Plan and the San Francisco Bay Basin Plan regulate such discharges through NPDES permits, a principal tool used in protection of aquatic sensitive species and other "beneficial uses" of State water resources.
- Potential impacts to special status fisheries could occur with additional water discharges from other non-refinery industrial projects, together with cumulative refinery projects.
- Continued compliance with the discharge requirements of the Refinery's NPDES permit would reduce potential biological impacts of increased pollutant discharge to less-than-significant levels.
- The Proposed Project's impact would be mitigated to a less-than-significant level by complying with the discharge requirements established by the RWQCB, as would the other Refinery operations discharging under the Refinery's NPDES permit. The existing regulatory programs consider cumulative impacts to water bodies, and the contribution of refineries to pollution of San Francisco and San Pablo Bays has been found to be insignificant. Therefore, the Proposed Project would not contribute to a cumulatively considerable impact.

## **Cultural Resources**

The Draft EIR, Vol. 1, Section 4.5 concludes that construction of the Proposed Project could result in several cultural resource impacts, all of which could be mitigated to less than significant levels:

- Construction could disturb currently unknown or unidentified cultural or paleontological resources or human remains.
- Construction would not impact historical resources, as defined in Section 15064.5, as no demolition of or substantial adverse change to historic structures would occur.
- Construction could impact previously identified cultural or paleontological resources during ground disturbance activities.

Potential impacts related to construction would be reduced to less than significant by standard mitigation measures and regulatory controls. (See Mitigation Measures 4.5-1 to 4.5-3, Final EIR, Vol. 3, pp. 4-22 to 4-24).

There would be no impacts to historical resources, unique archaeological resources, unique paleontological resources, unique geologic features or human remains during operation of the Proposed Project.

Both City of Richmond and state level regulations require identification and evaluation of cultural resources as part of environmental review effectively reduces the cumulative impacts that would occur to cultural resources. Because this uniform policy is designed in each case to reduce impacts on cultural resources to below a level of significance on a site-specific basis, cumulative impacts would be less than significant.

## **Energy**

Construction and operation of the Proposed Project would increase consumption of energy within the Refinery beyond current levels. However, the Proposed Project also would increase the amount of hydrogen, electricity and California Air Resources Board (CARB) approved gasoline produced by the Refinery.

The EIR concluded as follows:

- The existing energy supplies are adequate for construction of the Proposed Project.
- The Proposed Project's cogeneration system would supply 44.5 megawatts (MW) gross (43 MW net) of electrical power and steam for use in process units, replacing boilers that now supply electrical power plus process steam. The new Hydrogen Plant would also produce 17 MW of electrical power. This would result in a net increase of 60 MW in electricity generated at the Refinery.
- The net result of the Proposed Project would be that the Refinery would typically self-generate all of the electricity needed for normal operations, and at times would export electricity to the grid.
- Hydrogen and fuel gas for process feed stocks and for firing the cogeneration system would be manufactured at the Refinery from crude oils and gas oils.
- Natural gas consumption would increase by about 1/3 above the existing consumption.
- No new electrical transmission lines or natural gas pipelines would be required to deliver energy to the Refinery.
- The Proposed Project would not increase reliance on renewable energy resources, and also would not decrease reliance on natural gas and oil, except to improve the efficiency with which useful products would be extracted from crude oil and gas oils at the Refinery.
- However, because the Proposed Project would make more energy resources available, not only by making more product available to the California market but also through the routine supply of a few megawatts of electricity to the PG&E grid, the Proposed Project would not contribute to a significant cumulative impact on the availability of energy resources.

The impacts to energy resources are less than significant under CEQA standards. No mitigation measures would be required.

## **Geology, Soils, Seismicity, and Mineral Resources**

- Seismic ground shaking could result in injuries to persons or structural damage to equipment or facilities.
- Facilities could be exposed to expansive soils and natural settlement.

Each of these impacts would be reduced to a less than significant level by compliance with applicable codes and regulations. No cumulative impacts related to Geology, Soils, Seismicity, and Mineral Resources that would result from the Proposed Project, because such impacts tend to be localized and because of the combined effects of building codes and other regulatory requirements and design standards that govern new buildings and structures. To ensure that seismic conditions

are considered in the design and construction of the Proposed Project, staff is recommending Condition H1 (originally recommended by the Design Review Board).

### **Hydrology and Water Quality**

The Hydrology and Water Quality effects related to implementation of the Proposed Project would be less than significant through compliance with applicable regulations, permits, and discharge requirements. (See Draft EIR, Vol. 1, Section 4.8, and Final EIR, Vol. 3, Section 3.9 (Response to RWQCB comments). As explained in the Final EIR (Vol. 3, page 3.9-3) in a September 26, 2007 letter to the City of Richmond, RWQCB staff stated that Chevron had provided sufficient data to support a conclusion that it is unlikely that the Proposed Project will increase pollutant loading of toxic metals to San Pablo Bay. The EIR also concluded that:

- Pollutants, including toxic metals and chemicals, could potentially increase in the Refinery wastewater effluent discharges to San Pablo Bay due to changes in crude sources and process activities. Discharges would be required to meet discharge requirements established by the RWQCB. Uncertainties in the amounts of the increases, if any, in toxic metal and chemical loadings and uncertainties in the ability of the receiving waters to assimilate those increases would be mitigated by the controls imposed by the RWQCB discharge requirements; therefore, the potential impact would be less than significant; and,
- Rainwater runoff from stockpiles of contaminated soils excavated during site preparation of the building sites for the new Hydrogen Plant and for the Continuous Catalytic Regeneration Reformer could introduce additional contaminant loading into the waste stream. However, these stockpiled soils would be managed under a Stormwater Pollution Prevention Plan as required by the RWQCB, which would mitigate the potential impact to less-than-significant levels. Mitigation Measure 4.8-2 requires that all stockpiles of contaminated soil be located in areas that drain to a wastewater treatment plant. Staff is recommending Conditions F1 and F2 to further ensure that stormwater pollution from the Proposed Project is addressed. Despite uncertainties in the cumulative amounts of increases in toxic metal and chemical loading and uncertainties in the ability of the receiving waters to assimilate increases, the Proposed Project's contribution to increased metal and chemical loading in effluent discharge, if any, to the cumulative loading in Bay receiving waters also would be a less-than-significant impact. Like the Proposed Project, the other projects considered in the cumulative analysis must comply with discharge requirements of the RWQCB.

Because one objective of the Proposed Project is to enable the Refinery to process a wider range of crude oils, and it is possible those crude oils could contain additional mercury and other water pollutants, staff is recommending Conditions F3 and C14. Condition C14 requires that the Refinery supply the City with the mercury data prepared pursuant to an Order of the RWQCB. Condition F3 requires a copy of the Anti-Degradation Report, if any, and monthly self-monitoring reports submitted by Chevron to the RWQCB.

### **Land Use, Plans and Policies**

The Draft EIR, Vol. 1, Section 4.9 concludes:

- All land use effects of the Proposed Project either would be less than significant or the Proposed Project would result in no impact. No mitigation is required.
- The Proposed Project would not conflict with established plans, policies and ordinances.

- Because it would be contained within the existing Refinery, the Proposed Project would not divide an established community.
- The Proposed Project would not affect a habitat conservation plan or natural community plan.

### **Noise**

The Draft EIR, Vol. 1, Section 4.10 analyzes the Proposed Project's noise impacts. The Final EIR, Volume 3 explains the noise analysis in more detail and identifies revised Mitigation Measures 4.10-1a and 4.10-1b (Final EIR, Volume 3, pp. 3.13-19 to 3.13-29 and new Figure 4.10-1 on p. 4-65). These measures require Chevron to take a number of precautions to ensure that noise levels remain below prescribed levels, and require ongoing monitoring of actual noise levels during Project construction.

Thus, construction and operation of the Proposed Project would result in noise effects that either would be less than significant or would be reduced to a less-than-significant level with the implementation of the identified mitigation measures. The EIR concludes:

- Proposed Project construction could result in temporary, significant noise impacts to adjacent sensitive land uses, such as nearby residences. Construction impacts would be mitigated to a less-than-significant level by implementing the identified mitigation measures.
- The Proposed Project would not involve adding new noise-producing equipment that could increase operational noise levels; therefore, Proposed Project operations would result in less-than-significant noise impacts on sensitive receptors.
- The Proposed Project would not contribute to cumulatively considerable noise levels in the local area.

Additionally, staff is recommending Condition G11 and H10, which require Chevron to make presentations to the Richmond Neighborhood Coordinating Council, as requested, to address community concerns, noise and vibrations from caused by construction of the Proposed Project.

### **Population, and Housing**

The effects related to Population and Housing from the implementation of the Proposed Project would be less than significant (see Draft EIR, Vol. 1, Section 4.11):

- The Proposed Project would not displace existing housing or any existing population.
- The Proposed Project would not result in a substantial increase in population.
- With only 10 new permanent employees added to the Refinery workforce, the Proposed Project's contribution to cumulative population growth and associated housing impacts would not be cumulatively considerable.

### **Public Health**

The Draft EIR analyzes public health in Section 4.12. Further detail and responses to public concerns are provided in the Final EIR, Vol. 3, Section 2.2.12. The EIR explains that exposure to emissions of toxic air contaminant (TACs) can result in health risks. However, the incremental health risks from the Proposed Project fall below the criteria established by the BAAQMD for CEQA projects that emit TACs. The public health effects related to construction and operation of the Proposed Project would be less than significant.

- Construction activities from the Proposed Project would increase emissions of TACs, mainly from diesel-powered construction equipment and trucks, throughout the construction period. The predicted offsite concentrations of TACs from construction emissions would be less than the BAAQMD CEQA significance thresholds and exposure to TACs from construction emissions would be a less than significant impact. No additional mitigation measures would be required.
- The operation of the Proposed Project would result in a less than significant cancer risk to workers and the public, and would not cause any acute or chronic non-cancer hazard from TACs. The magnitudes of both these risks would fall below the significance thresholds. The health risks from the Proposed Project would, therefore, be less than significant. No additional mitigation measures would be required.
- The Proposed Project would not cause any cumulatively significant public health impacts.

In response to public concern, and given the inherent uncertainty about the precise characteristics of the expected change in the Refinery's crude slate as a result of the Proposed Project, staff is recommending Conditions C12, D2, D3 and D4, which would require Chevron to (1) conduct testing to ensure that the assumptions in the Health Risk Analysis relied upon in the EIR remain accurate; and (2) conduct several studies to compare the, criteria pollutants and TACs in (a) flare emissions and (b) refinery fuel gas before and after implementation of the Proposed Project.

### **Public Safety**

The risks to Public Safety from the implementation of the Proposed Project were evaluated in the context of possible accidental releases of acutely hazardous substances, explosion or fire. (See Draft EIR, Volume 1, Section 4.13). The EIR concludes that:

- As long as the Proposed Project components are designed to applicable codes and industry guidelines, and as long as the facility operators maintain the strict safety practices required by the California Accidental Release Prevention (CalARP) Program, the impacts from plausible accidents would be less than significant.
- The Proposed Project would not cause any cumulatively significant public safety impacts.

The use of hazardous materials at the Refinery is discussed further under CUP Findings 5-8 below, and in the response to a December 4, 2007 letter from Contra Costa Health Services included in Attachment 9.

### **Public Services**

As explained in the Draft EIR, Vol. 1, Section 4.14, the effects on Public Services related to the implementation of the Proposed Project would be less than significant with implementation of Mitigation Measures 4.14-1a through 4.14-c and 4.14-2. . Specifically, Chevron must hire additional security officers, enforce rules and regulations with respect to the conduct of construction personnel, and assist the City in training firefighters in industrial firefighting. Thus:

- The Proposed Project would not significantly affect the Richmond Police Department's ability to provide police protection services to the Proposed Project site and City of Richmond.
- The Proposed Project would not significantly affect the ability of the Richmond Fire Department to provide mutual aid fire suppression and emergency response services to the Refinery or to serve other parts of the City.

- The Proposed Project would not significantly affect the ability of the West Contra Costa School District to adequately provide educational services to residents of the City of Richmond. The Proposed Project would not significantly affect other public services such as libraries or hospitals. As discussed in the EIR, the Project will result in an increase of 10 permanent workers at the Refinery, and will not directly or indirectly induce substantial population growth in the area. (See EIR, Volume 1, Section 4.11 and Section 4.14, pages 4.14-7 to 4.14-8.)
- The Proposed Project, with mitigation measures proposed in Section 4.14, is would have a less than cumulatively considerable impact on the need for governmental services for police or fire protection.

Since publication of the Final EIR, the Fire Department recommended an additional measure regarding funding of refinery fire training; therefore, the following was added by staff as Condition J9.

- Chevron shall pay the overtime costs for backfilling Fire Department personnel who attend the Chevron Corporate Fire Training Program at Texas A&M University or the University of Nevada, Reno, or an equivalent program.

Alternatively, the Planning Commission may choose to add this language as new Mitigation Measure 14.14c.

### **Parks and Recreation**

Construction and operation of the Proposed Project would result in effects related to Parks and Recreation that would be less than significant and would not require mitigation measures:

- The construction of the Proposed Project would not increase the use of nearby neighborhood parks or increase demand by construction workers for use of the proposed segments of the Bay Trail along Western Drive.
- None of the physical changes occurring with the implementation of all components of the Proposed Project would affect the proposed Bay Trail alignment.
- The Proposed Project has no cumulatively considerable impacts on recreational resources.

For further discussion regarding the Bay Trail, see the discussion of Design Review Board recommended Condition 2 in Part IV, above.

### **Transportation**

The Transportation effects related to the implementation of the Proposed Project would occur primarily during construction of the Proposed Project components. The construction phase of the Proposed Project would generate up to about 1,767 daily trips, including 485 a.m. peak-hour trips and 400 p.m. peak-hour trips, at the Chevron Refinery.

- Project-generated increases in traffic volumes at the signalized study intersections of Castro Street / General Chemical Access, and Richmond Parkway / Gertrude Avenue would result in a significant impact to peak-hour operations during construction of the Proposed Project.
- The impacts at the above-cited intersections can be mitigated by implementation of Mitigation Measures 4.16-1 to 4.16-2, which include (1) the provision of traffic control personnel during peak arrival and departure times in the a.m. and p.m. peak hours, and (2) reconfiguration of lanes on specific intersection approaches during the affected peak

hour(s), through the use of traffic cones (and flaggers as needed). Implementation of those measures would mitigate the project impacts to a less-than-significant level. In order to ensure that these measures can be effectively carried out, and that the City remains apprised of issues concerning the Project's effect on transportation, Condition G3 requires Chevron to notify the Police, Public Works, and Engineering Departments and meet with designated representatives of these departments in advance of construction and monthly, or as otherwise agreed, during construction, to coordinate issues related to construction traffic and the implementation of traffic control mitigation measures.

Operation of the Proposed Project following project construction would generate about 34 new daily one-way truck trips because of increased import and export of materials to and from the Refinery. Refinery permanent employment levels would increase by 10 employees. This amount of added traffic would not contribute to a significant impact at the study area intersections under 2025 cumulative conditions.

### **Utilities and Service Systems**

The Proposed Project would have less than significant effects on utilities and services systems:

- The increase of 0.7 MGD in water use by the Proposed Project represents a 6% increase over the current water use at the Refinery. The overall water supply would be sufficient to serve the Proposed Project, and would not require the development of new potable water sources. Thus, the contribution of the Proposed Project to the water demand would be less than significant. Under either normal or drought conditions, the increased water use by the Proposed Project would not exceed supplies, and the cumulative impact to water supply from this and other projects would be less than significant as well. To offset the Proposed Project's increased use of water, staff is recommending Condition F4, which requires Chevron to continue its joint effort with EBMUD to implement a RARE Water Reclamation Project acceptable to both Chevron's and EBMUD's management. In the event Chevron and EBMUD fail by the end of this year to execute definitive agreements for the construction and operation of the RARE Water Reclamation Project, Chevron must prepare and submit an alternative water recycling plan to the satisfaction of the City.
- The Proposed Project would not substantially increase the amount of non-hazardous solid waste that would be produced at the Refinery and either recycled or disposed in landfills. Current landfill capacity would be sufficient to serve the Proposed Project. To further decrease the amount of solid waste that is disposed in landfills, staff recommends Condition I1, which would require Chevron to divert construction and demolition debris from the waste stream to the extent feasible, and to meet with the Planning Department prior to start of construction to present its plan for achieving the diversion.
- The contributions of the Proposed Project to the cumulative water use and cumulative use of landfill capacity would be less than significant.

No mitigation would be required for potential impacts to utilities and services systems.

### **Comments Received:**

Hundreds of comments were submitted on the Draft EIR by individuals, organizations and agencies; many had common themes or topics:

- Recirculation of the Draft EIR
- Project Description / Crude Oil Slate / Cumulative Projects
- Alternative Energy Sources and Use

- Greenhouse Gas Generation
- Air Quality / VOC / Air Monitoring
- Odor
- Flaring
- Mitigation Measures
- Public Health
- Environmental Justice

Written responses to these comments and all other comments on the Draft EIR can be found in the Final EIR, Volume 3. Although not required by CEQA, responses to letters submitted after the close of the comment period on the Draft EIR were prepared and are in Attachment 9.

The majority of concerns regard a potential increase in adverse health effects. Specifically, the public identified the existing, above-average and potential increase of asthma rates especially in children. Comments identified a relationship in the project's increase in VOC emissions that interact with sunlight to become ozone; an increase in lung injury for the same reason; an increase in hospital admissions due to the potential rise in heart disease from an the Proposed Project's other emissions, including carbon monoxide; a deterioration of health and well-being due to potential water contamination; higher rates of cancer; and an increase in eye-irritation and headaches. All such adverse health effects would pose threats to well-being and quality of life. In addition, community members presented first hand accounts of health effects such as asthma, headaches, pulmonary disease, and cancer they already experience and attribute to the current operation of the Chevron Refinery. Concerns were expressed about Chevron's inability to address existing health problems that may be exacerbated by the Proposed Project.

The potential increase in frequency and magnitude of flaring is a stated concern for the public as it increases the amount of VOC and sulfur compounds (including the toxic contaminant  $H_2S$ ) released into the air. Severe asthma attacks, migraines, rashes, and eye irritation are the commonly reported symptoms of people living downwind from a refinery during a flaring event. The BAAQMD is cited by community members as stating that flaring is acceptable only in emergencies. There is a belief that Chevron uses flares more often than in emergencies, and that Chevron is increasing flaring while other refineries are decreasing such events.

The public also raises concerns about environmental justice, as many of the above mentioned health concerns affect low-income communities and people of color. Environmental justice is mentioned as a concern not only for the adverse health impacts of the Proposed Project, but also for the increases in odors, water pollution, and air pollution that the public attributes to the Proposed Project. The residents of the San Pablo Harbor expressed a concern with water pollution and the existing dead zone in this body of water. They worry that the Proposed Project would exacerbate this problem.

Several first hand accounts attribute odors to the existing Chevron Refinery and express concern that there will be increased odors from the Proposed Project. There is a concern that the Proposed Project does not include features to address odors, and that cumulative odor impacts should be addressed by Chevron.



A general concern of the public is the potential increase in GHGs attributed to the Proposed Project, which would contribute to global warming. Many commenters felt that the Proposed Project did not include a complete inventory of GHG emissions and that additional emissions of GHGs would occur during project construction and during increased flaring events. There is also a concern that because GHG emissions of the project are detrimental to all of California, the Proposed Project may make it more difficult for the State to achieve the reductions required by Assembly Bill 32, the California Global Warming Solutions Act of 2006. Many believe that Chevron could and should implement green technologies, by increasing energy efficiency and increasing the use of renewable energy technologies, to lower GHG emissions and address health concerns. This could also be used to promote the region as an environmental leader. Many comments recommend that Chevron rebuild its refinery using renewable energy alternatives and, thus, contribute to what the public believes would be a healthier community.

Another area of concern was the potential detriment of the Proposed Project to economic activity and development in the region. Environmentally detrimental projects make it more expensive and less desirable for businesses to relocate to the region, and may adversely impact business opportunities and jobs. Concern was expressed that the negative effects of the Proposed Project would lead to movement out of the community and a loss of investment in these regions. The public believes that Chevron could use green technologies and renewable energies to create green jobs and increase economic development within the region.

## **VI. CONDITIONAL USE PERMIT FINDINGS:**

The specific reasons upon which the Planning Commission bases its decision must be set forth in the written findings required by Section 15.04.910.050 of the Zoning Ordinance. The following are summaries of the findings, which are stated in full in proposed Resolution 08-03.

1. The location of the proposed conditional use is in accordance with the policies of the General Plan of the City of Richmond.

Statement: Criterion conditionally satisfied. The General Plan land use designation for part of the proposed tank site is *Recreation* (908), and is designated as *Community and Regional Recreation* (CRR) by the Zoning Ordinance. The proposed tank construction would occur entirely on Refinery property and well away from the public shoreline of the Bay, and the shoreline area would not be directly or indirectly affected. Conditional uses may be found to be consistent with the General Plan if approved by the Planning Commission based on appropriate scale and density for the designated area and controlled conditions specified by a conditional use permit. The proposed tank construction would occur in an area away from residential uses. The remainder of the Proposed Project is consistent with the General Plan.

2. The location, size, design and operating characteristics of the proposed use will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the proposed conditional use and the surrounding neighborhood.

Statement: Criterion conditionally satisfied. People residing or working in or adjacent to the Chevron Refinery believe that the presence of the Refinery adversely affects the community

health and sense of well-being. To address the effects of the Proposed Project on the public health, safety, and welfare of persons residing or working in Richmond, staff developed Conditions of Approval (Attachment 4, Exhibit A) that would affect existing and proposed equipment, facilities, and operations at the Refinery in order to reduce air emissions; improve water quality; expand public monitoring and public notification of refinery operations; improve the quality of life for surrounding neighborhoods; expand litter control and recycling; and expand local employment and training opportunities.

Staff shares the public concern that greenhouse gas emission increases associated with the project may lead to global warming. There is uncertainty of the effects of greenhouse gas emissions on global climate change, and at the time, there are no rules or regulations to establish emission limits. Mitigation Measures 4.3-5a through 4.3-5g (Final EIR, Volume 3, pages 4-56 through 4-59) address the increase in GHG emissions that could result from the Proposed Project. Specifically, implementation of these Mitigation Measures will require Chevron to take action to ensure that there is no net increase in greenhouse gas emissions. Additionally, Condition E1 encourages reduction of GHG emissions from Proposed Project equipment below existing levels, and establishes a fund for local GHG reduction projects by charging Chevron a fee per ton of GHG emitted by the Proposed Project equipment. The Proposed Project, with staff-recommended conditions of approval (Attachment 4, Exhibit A), would not be detrimental to the public health, safety, or welfare of persons residing or working in Richmond near the Refinery.

3. The proposed conditional use complies with all applicable provisions of the Zoning Ordinance.

Statement: Criterion conditionally satisfied. The Conditional Use Permit would ensure environmental impacts are minimized to carry out the objectives established for the *Community and Regional Recreation* (CRR) Zoning District. The proposed tanks would not cause off-site noise, air emissions, or risk to health or safety that would prevent public use of the shoreline. The proposed tank site is not located adjacent to any residential uses and public or civic uses that would be negatively impacted by its presence. Design Review Board-recommended Condition H6 ensures that tanks will be appropriately screened from view. The remainder of the Proposed Project is consistent with the Zoning Ordinance, as summarized below.

Two oil tanks will rebuilt on land zoned M-4 – *Marine Industrial*. Petroleum storage facilities” for a Port/Marine Terminal are permitted in the M-4 District pursuant to RMC section 15.04.340.020. Less than 75 feet in height and more than 100 feet from the shoreline, these tanks meet the Zoning Ordinance’s general development standards for commercial and industrial districts (RMC section 15.04.820) as well as development standards for the M-4 District (RMC section 15.04.340). RMC section 15.04.340.050 also generally requires that development in M-4 District provide for free public, pedestrian access to the shoreline, but such public access is not required where it would create a safety hazard. (See section 15.04.340.050(1)(b).) As explained in the EIR, placement of the tanks in the M-4 District will not have any impact on public access to the shore, because tanks are already located in the same area. In addition, as reported in the EIR, Volume 1, page 4.15-3 (See also Volume 3, pages 4-62 to 4-63), Chevron has stated that permitting public access to this area, including bicycle access, could be a threat to public safety and Refinery equipment. (Draft EIR, Volume

1, page 4.15-3, and Final EIR, Volume 3, responses to letter 3.10 and page 4-78.) Thus, the Commission finds that the Project is in compliance with the M-4 district development standards found in RMC section 15.04.340.050.

The remainder of the Proposed Project would take place well within the Refinery's boundaries in land zoned M-3 *Heavy Industrial*. Mitigation measures and conditions addressing noise, odor, particulates, other air contaminants, light and glare, construction operations, solid and liquid waste, landscaping, screening, and design review ensure that the Proposed Project would comply with the applicable development standards in RMC sections 15.04.820 and 15.040.330. The Proposed Project also provides for adequate parking for the planned new facilities pursuant to RMC section 15.04.850.060. Height standards do not apply to process equipment in the M-3 district. Similarly, the Zoning Ordinance requirements for screening of outdoor activities and mechanical equipment (RMC §15.04.840.120, §15.04.820.013) are not applicable to the Proposed Project due to the size of most of the outdoor equipment (e.g., the CCR Reformer will be approximately 300 feet high). For the proposed non-process facilities, including the new Central Control Room and new Maintenance Facility, condition of approval H11 requires Chevron to obtain City approval of the specific design of these buildings once the designs have been completed and prior to obtaining a building permit. Many of the impacts of concern in the zoning code were also analyzed in the EIR and found to be less than significant. Proposed Resolution 08-03 states these findings in more detail, with specific references to the EIR.

4. The site of the proposed use is adequately served by highways, streets and other public service facilities.

Statement: Criterion satisfied.

EIR, Volume 1, Section 4.14, analyzed the Proposed Project's impacts on public services and utilities, including police protection, fire protection and prevention, and other services such as schools, libraries, and hospitals. The Proposed Project's impact on public roadways was analyzed in Section 4.16 of Volume 1 the EIR. The Proposed Project sites are located entirely within the Refinery, with internal circulation leading to public access on Castro Street and regional access via Interstate Highway 580. The Refinery site has adequate first and second response public emergency services available. Section 4.17 of Volume 1 of the EIR also discusses and analyzes the Project's impact on municipal water demand, wastewater and sewer treatment, and solid waste, and determines that the existing services are sufficient to support the Project. To address burdens on public facilities during or resulting from the construction of the Proposed Project, Mitigation Measures 4.14-1 through 4.14-2, and 4.16-1 through 4.16-4 require Chevron to hire additional security officers, enforce rules and regulations with respect to the conduct of construction personnel, assist the City in training firefighters in industrial firefighting, implement traffic control measures at certain intersections, and repair any public roads damaged by Project construction. As discussed in the EIR, the Project will result in an increase of 10 permanent workers at the Refinery, and will not directly or indirectly induce substantial population growth in the area. (See EIR, Volume 1, Section 4.11 and Section 4.14, pages 4.14-7 to 4.14-8.) Thus, there would be no additional burden on public services such as schools, libraries, hospitals, or recreational facilities.

## **Hazardous Materials Findings**

The Planning Commission the Commission must also make the following Conditional Use Permit findings pursuant to Section 15.04.820.025.B, Hazardous Materials, because the Proposed Project involves manufacturing and storage of moderately hazardous materials in the M-3 and M-4 districts (see discussion in Part II, above).

1. The activity will not create an unreasonable risk to the public health and safety or to the surrounding properties and activities (RMC § 15.04.820.025.B.1).

Statement: *Criteria conditionally satisfied.* Section 4.12 of Volume 1 of the EIR analyzes whether the Project would create a significant hazard to the public through the routine transport, use, or disposal of hazardous materials during Project construction and operation. Section 4.13 of Volume 1 of the EIR analyzes the potential risk of accidental releases of hazardous materials at the Refinery and how those risks would change as a result of the Project. The EIR responds to public comments on hazardous materials issues in Volume 3. (See, e.g., EIR, Volume 3, pages 3.13a-33 to 3.13a-35, and 3.28-1 to 3.28-2.) The Bay Area Air Quality Management District has confirmed that a health risk assessment prepared for the Project concluded that the Project would not have an unacceptable health risk due to emissions of toxic air contaminants. (Young 2008.) Based on these analyses, and the many procedures, plans, controls, and regulations in place governing the handling of hazardous materials at, from, and to the Refinery, the EIR concludes that the Project's use of hazardous materials would not cause a significant impact or unreasonable risk to public health and safety or to surrounding properties and activities.

2. The activity is consistent with the character and economic function of the surrounding area (RMC § 15.04.820.025.B.2).

Statement: *Criteria satisfied.* The components, structures and equipment that make up the Project will be located entirely within the existing Refinery site. The Refinery currently uses hazardous materials that fall into the categories identified in the table in RMC section 15.04.820.023 as "moderately hazardous materials, including...flammable gases, flammable liquids..." and will continue to do so after implementation of the Project. The Project facilities and equipment will replace older, existing facilities and equipment located entirely within the boundaries of the existing Refinery, which is located in the M-3, M-4 and CRR zoning districts. The EIR concludes either that the impact from the Project on all land uses would be less than significant or would result in no impact. The EIR also concludes that the Project would not conflict with established plans, policies and ordinances. The Project, as conditioned, therefore will be consistent with the character and economic function of the surrounding area.

3. The proposed activity with any conditions will not result in significant impact on environmentally sensitive areas (RMC § 15.04.820.025.B.3).

Section 4.4 of Volume 1 of the EIR analyzed the impacts of the Project on environmentally sensitive areas, including wetlands and habitat for special status species, and concluded that the Project would not have a significant environmental impact.

4. The request has been approved by the Fire Department (RMC § 15.04.820.015.B.4).

Statement: *Criteria satisfied.* The Fire Department has reviewed the application materials and the applicable sections of the EIR, and has approved the request for a Conditional Use Permit for the Project.

### **DRB Findings**

The Planning Commission the Commission must make the following Design Review Permit findings pursuant to Section 15.04.820.025.B.

1. The proposed design is suitable for its purpose, is harmonious with and relates properly to, the surrounding neighborhood, contiguous parcels, and the site itself (RMC § 15.04.930.110.A.1).

Statement: *Criteria conditionally satisfied.* The Project will replace existing facilities and equipment within the Refinery and add new facilities and equipment. Neither the replacements nor the new facilities and equipment will change the basic size, design or characteristics of the Refinery or the surrounding area. As described in the EIR, the Project is consistent with the General Plan and M-3 Heavy Industrial Zoning District where most of the improvements will be located. All components of the Project will be constructed within existing Refinery operational areas and continue the existing, industrial land use. All Project components, other than the new and replacement storage tanks, are located approximately one-half mile from the Refinery boundaries.

The EIR analyzed the Project's impacts on aesthetics, visual quality, and light and glare, and determined that the design of the Project would not have a significant adverse impact on the surrounding neighborhoods. (See EIR, Vol. 1, pages 4.1-22 to 4.1-27.) Measures to mitigate potential construction noise, vibration, and dust impacts have been adopted and made conditions of Project approval. (See EIR, Vol. 3, pages 4-27 to 4-31, describing Mitigation Measures 4.10-1a and 4.10-1b, and page 4-51, describing portions of Mitigation Measure 4.3-1a that address dust). Condition C3, C4 and C9, among others also address odorous or other noxious emissions that may result from implementation of the Project.

The following conditions recommended by the Design Review Board and approved by the Planning Commission, or independently adopted by the Planning Commission, also serve to ensure that the design of the Project is harmonious with the surrounding neighborhoods:

- Condition H6 requires Chevron to plant additional trees to increase the screening of tanks and equipment that are visible from Interstate Highway 580.
- Conditions H3-H6 require Chevron to implement plans developed by a landscape architect or arborist for successful additional landscaping on the Refinery property, which will include

fire- and drought-resistant species and replace exotic species with native species, and to establish urban groves in the City of Richmond.

- Condition H8 requires Chevron to remove all stacks that are retired as a result of the Project within one year of their shut down.
- Condition I1 requires Chevron to maintain the Project site and surrounding areas in an orderly fashion, including removal of litter and debris.
- Condition I2 requires that all Renewal Project external light fixtures be directed toward specific targets of illumination so as not to interfere with the vision of nearby residents, motorists, bicyclists and pedestrians.

Therefore, as conditioned and mitigated, the Project will relate properly to and be harmonious with the contiguous parcels, the surrounding neighborhoods, and the site itself.

2. The location, size, design, and characteristics of the proposed project will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing in or working in or adjacent to the proposed project (RMC § 15.04.930.110.A.2).

Statement: *Criteria conditionally satisfied.* See CUP Finding 2, above.

3. The overall design will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood (RMC § 15.04.930.110.A.3).

Statement: *Criteria conditionally satisfied.* The Project will not change the character of the existing neighborhood. Furthermore, the screening and landscaping conditions of approval proposed by the Design Review Board and incorporated into the Project will help to upgrade the aesthetics of the Refinery site.

4. The design of the proposed project is in accordance with the general plan of the City of Richmond and all applicable provisions of the zoning ordinance (RMC § 15.04.930.110.A.4).

Statement: *Criteria satisfied.* See CUP Findings 1 and 3, above.

## **CONCLUSION:**

While a number of the physical effects of the Proposed Project would be local (i.e., would affect people in Richmond), some would not be significant and all would be reduced to less-than-significant levels under CEQA following implementation of mitigation measures recommended in the Draft EIR and Final EIR. The effects of the Proposed Project on public health, safety and welfare would be reduced following implementation of the proposed Conditions of Approval. Therefore, staff recommends that, based on the evidence in the record, including but not limited to the Draft EIR and Final EIR, the proposed Conditions of Approval including all proposed mitigation measures in the EIR, the proposed Mitigation Monitoring and Reporting Program, and the application, plans, and materials submitted to the City, the Planning Commission:

- (a) Certify the EIR and make the necessary findings of facts for the Energy and Hydrogen Renewal Project at the Chevron Refinery;

- (b) Adopt all the mitigation measures identified in the EIR and make them conditions of project approval, substituting Mitigation Measure 4.3-2a (revised) for Mitigation Measure 4.3-2a identified in the Final EIR;
- (c) Adopt the Mitigation Monitoring and Reporting Program;
- (d) Accept the staff's recommended Design Review Board findings and conditions of approval and approve Design Review Application No. 1104423, with conditions;
- (e) Make the necessary findings for approval and approve Conditional Use Permit No. 1101974, with the recommended Conditions of Approval ; and
- (f) Direct the City Manager to send a letter to the State Lands Commission requesting that Commission to require that certain conditions of approval related to the Bay Trail, to identifying two ships for cold ironing, and to the operating temperature of the marine vapor recovery system, be incorporated into the lease renewal for the Long Wharf.

**DOCUMENTS ATTACHED:**

- Attachment 1: Master Environmental Impact Report, consisting of a Draft Environmental Impact Report (Volumes 1 and 2) and Final Environmental Impact Report (Volumes 3, 4 and 5)
- Attachment 2: Errata: Chevron Energy and Hydrogen Renewal Project Final Environmental Impact Report
- Attachment 3: Resolution 08-02 Certifying the EIR, Adopting Findings, and Adopting the Mitigation Monitoring & Reporting Program (MMRP), with CEQA Findings as Exhibit A and MMRP as Exhibit B
- Attachment 4: Resolution 08-03 Approving the CUP and DR Permit, with CUP and DR Permit & Conditions of Approval as Exhibit A
- Attachment 5: Chevron Application, April 6, 2005
- Attachment 6: Operating engineers Local Union No. 3, letter dated February 28, 2008
- Attachment 7: Design Review Board Staff Report, January 31, 2008, with conceptual plans dated January 9, 2008
- Attachment 8: Design Review Board recommended conditions, January 31, 2008
- Attachment 9: Responses to Late-Received Comment Letters on the Chevron Energy and Hydrogen Renewal Project
- Attachment 10: Letter from Attorney General dated March 6, 2008
- Attachment 11: Letter from Ron Van Buskirk on behalf of Chevron dated March 10, 2008
- Attachment 12: Letter addressed to Ms. Finlay, from the Mayor's Environmental Justice and environmental Health Task force, dated March 7, 2008

LT/JH  
DR/

Cc: Robert Chamberlin, Chevron Products Company  
Point Richmond Neighborhood Council