

For Immediate Release Monday, April 26, 2010

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Appeals Court Upholds Environmental Justice in Richmond

Environmental Impact Report for refinery expansion ruled inadequate

Richmond, April 26, 2010 — In an unprecedented victory for the community, the California State Court of Appeals has upheld the majority of findings in a lower court decision that the Environmental Impact Report (EIR) for the expansion of the Chevron Corporation's refinery in Richmond California violated state environmental law. The Community members have been campaigning to fight the proposed switch to refining dirtier, heavier oil for several years.

"This decision is a significant victory for environmental justice in the city of Richmond and beyond," said Dr. Henry Clark, executive director of West County Toxics Coalition. "African American, Latino and Asian communities near the refinery have borne a disproportionate burden of exposure to pollution from the refinery for decades. And the community has been fighting back for decades – this victory is huge."

"The court agrees that the people of Richmond have a right to know just how dirty the crude oil processed in this refinery will be," said Earthjustice attorney Will Rostov. "The court pointed out the legal deficiencies in Chevron's refinery expansion plan and tells Chevron the simple steps it needs to expand their refinery in a legal way that won't harm the neighbors."

Environmental justice groups Communities for a Better Environment (CBE), Asian Pacific Environmental Network (APEN), and West County Toxics Coalition (WCTC), represented by Earthjustice, had sued the City of Richmond over its approval of the refinery expansion in 2008, on the basis that the inadequacies in the EIR rendered approval illegal under the California Environmental Quality Act. Last year, a California Superior Court in Contra Costa County agreed, tossing out that EIR and issuing an injunction preventing further work on the refinery expansion.

"In this difficult economic climate, Chevron has used jobs to hold our communities hostage," said James Walker, member of Service Employees International Union Local 1021 and local city equipment services worker. "As a Richmond resident and union worker, I shouldn't have to choose between jobs and my family's health. Times are tough. We're all struggling to pay bills and put food on the table. It's time for Chevron to come to the table and negotiate an agreement that protects community health and gets people back to work."

The appellate court found today that the EIR should have addressed changes in the grade of crude oil the refinery would process after the expansion. The expansion project would increase the refinery's ability to process dirtier grades of crude oil according to experts hired by the community, the State Attorney General's office and the trade unions, all of whom independently reviewed Chevron's proposed plans.

The groups charge that the refinery would likely emit significantly more toxic pollution if it begins refining dirtier crude. This pollution would include chemicals linked to cancer and respiratory ailments, according to the groups' expert. The EPA reported nearly 100,000 pounds of toxic waste from the site in 2007, including more than 4,000 pounds of benzene (a known human carcinogen) and 455,000 pounds of ammonia, repeated exposure to which can cause an asthma-like illness and lead to lung damage.

"This is a good decision," said Socorro Garcia, a ten-year Richmond resident and neighbor of the refinery. "There are people like me living very close to the refinery. The refinery has damaged our health and our community. Our health is our future."

In a precedent-setting decision on one issue, the Court also found fault with the EIR for failing to include specific and proven plans to mitigate a projected increase in greenhouse gas emissions from the expansion and for allowing Chevron itself (not the City) to come up with a mitigation plan later, outside the publicly involved CEQA process. The Chevron Richmond refinery is the single largest source of greenhouse gas pollution in the state, according to data released by the California Air Resources Board in 2009. The EIR indicated that the expansion could generate almost 900,000 tons of additional greenhouse gases.

"It's a double whammy," said Sandy Saeteurn, Lead Organizer with APEN and a Richmond resident. "Chevron is hurting Richmond residents like my family with its toxic pollution and hurting the planet with its greenhouse gases. I grew up in Richmond doing Chevron refinery accident drills instead of fire drills. I don't want my 9-yr old son Nicky to keep doing the same. Accurate public information about the proposed refinery expansion will allow better decisions for protecting our environmental and economic health."

Chevron's plan to expand the Richmond refinery — allowing the facility to refine heavier crude oil than it can now process — could significantly increase the facility's greenhouse gas emissions, according to CBE scientist Greg Karras. "Refineries that have begun the switch to heavier, dirtier crude oil emit up to 58 percent more greenhouse gases per barrel refined as compared with the average U.S. refinery," said Karras.

"Asthma rates in Richmond are already twice the national average," said Richmond resident Kay Wallis, a health educator with the Division of Pulmonary and Critical Care Medicine at UCSF. "For decades, Richmond families have paid a steep price for living near Chevron's refinery. Now there's evidence that the impact of Chevron's pollution extends well beyond our beleaguered local neighborhoods — the damage is worldwide."

"Richmond doesn't need dirtier crude," said Greg Karras. "Now we can move onto the

task of creating healthy, green jobs that put people to work weatherizing buildings, expanding public transit, and moving Richmond toward economic and climate sustainability. Chevron could be a leader in this change. It can't continue with business as usual — not for long."