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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

CITY OF RICHMOND,

Plaintiff,

vs.

CHEVRON CORPORATION, a corporation; CHEVRON USA, INC., a corporation, and DOES 1 through 10, inclusive,

Defendants.

CASE NO. C 13-01654

COMPLAINT FOR:

1. **NEGLIGENCE**
2. **STRICT LIABILITY-ULTRAHAZARDOUS ACTIVITY**
3. **PRIVATE NUISANCE (CONTINUING)**
4. **PRIVATE NUISANCE (PERMANENT)**
5. **PUBLIC NUISANCE (CONTINUING)**
6. **PUBLIC NUISANCE (PERMANENT)**
7. **TRESPASS**

JURY TRIAL DEMANDED

PER LOCAL RULE 5 THIS CASE IS ASSIGNED TO DEPT 6

SUMMONS ISSUED

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The City of Richmond brings this action for damages against Defendants Chevron Corporation and Chevron U.S.A. Inc. (collectively "CHEVRON").

I. INTRODUCTION

1. This case represents yet another example of a corporate culture which places **profits and executive pay over public safety**. It arises from the terrifying refinery fire that occurred on August 6, 2012 at Chevron's Richmond Refinery, and is a continuation of years of neglect, lax oversight, and corporate indifference to necessary safety inspection and repairs that were known to have caused numerous other fires and explosions.

2. As residents were commuting home and families were sitting down at their dining room tables, a dangerous hydrocarbon release spewed from a leaking, corroded pipe and ignited, creating a ferocious fireball and massive black plume of smoke, covering the area. As a result, the City of Richmond has suffered significant economic harm.

3. The explosion and fire that occurred, releasing dangerous hydrocarbons into the atmosphere surrounding the City of Richmond, was not a freak accident or a chance occurrence. It was an inevitable byproduct of Chevron's willful and conscious disregard of public safety. In the aftermath of the refinery fire, copious evidence regarding the causes of the disaster and Chevron's role in the events leading up to it all point to one conclusion: it was only a matter of time until the decades-long decisions made by Chevron's officers, directors, and managing agents to **ignore the dangers of corrosion** in its pipe systems that the risk of a catastrophic rupture would occur once again.

4. Beyond ignoring the dangers of corrosion, Chevron officers, directors, and managing agents incentivized its employees to **delay needed safety repairs** at the Richmond Refinery, despite record earnings to fund the work.

5. While ignoring the public's safety, health, and welfare, Chevron spent an extraordinary sum on executive salaries and lobbying expenditures. In 2011 alone, Chevron spent **$52.8 million** to compensate its top three executives, with its Chief Executive Officer,

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John Watson, raking in **$25 million**[1] in total compensation. Despite presiding over the company during the August 6, 2012 fire and the scathing indictments hurled by state and federal regulators, in April 2013, Chevron awarded Mr. Watson with an additional $3.5 million cash bonus for achieving Chevron's **$26.2 billion profit**. At the same time, Chevron spent over **$10 million** on the 2012 federal and California **political campaigns** and approximately **$15 million** lobbying Congress and the California State Legislature during the 2011-2012 legislative session, much of it to decrease regulations. All of this money could have gone to preventing the August 2012 fire.

II. JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Chevron because Chevron has its headquarters in San Ramon, California, and is therefore a resident of California. Moreover, Chevron has done and continues to do significant business in California so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

7. Venue is proper in this County as Chevron is located and/or performs business in this County, and substantially all of the events, acts, omissions and transactions complained of herein occurred in this County.

8. The amount in controversy exceeds the jurisdictional minimum of this Court.

III. PARTIES

A. Plaintiff

9. Plaintiff **CITY OF RICHMOND ("RICHMOND")** has suffered economic harm as a result of the August 6, 2012 Chevron refinery explosion and fire.

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[1] Mr. Watson's salary is small compared to Chevron's former CEO, David O'Reilly, who received nearly $50 million in total 2008 compensation, making Mr. O'Reilly one of the highest paid United States CEOs at the time. Mr. O'Reilly's high 2008 salary followed the disastrous explosion and fire at the Richmond Refinery in 2007.

B. Defendants

10. Defendant **CHEVRON U.S.A. INC.**, a subsidiary of Chevron Corporation, is headquartered in San Ramon, California, which serves as its principal place of business. Chevron U.S.A. is an energy corporation that is engaged in the exploration, production, refining, marketing, and transporting of oil, gas, and geothermal energy. It owns and operates the Richmond Refinery.

11. Defendant **CHEVRON CORPORATION** is the parent company of Chevron U.S.A. Chevron Corporation is headquartered in San Ramon, California, which serves as its principal place of business in Contra Costa County, California.

C. Other Defendants

12. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants DOE 1 through DOE 10, inclusive, are unknown to Plaintiff who therefore sues said Defendants by such fictitious names pursuant to Code of Civil Procedure section 474; Plaintiff further alleges each fictitious Defendants is in some manner responsible for the acts and occurrences set forth herein. Plaintiff will amend this Complaint to show their true names and capacities when the same are ascertained, as well as the manner in which each fictitious Defendant is responsible.

D. Agency and Concert of Action

13. At all times herein mentioned, each of the Defendants was the agent, servant, employee, partner, aider and abettor, co-conspirator and/or joint venturer of each of the remaining Defendants named herein and were at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy, alter ego and/or joint venture. Each Defendant has rendered substantial assistance and encouragement to the other Defendants, knowing that their conduct was wrongful and/or unlawful, and each Defendant has ratified and approved the acts of each of the remaining Defendants.

IV. FACTUAL BACKGROUND FOR THE CLAIMS ASSERTED

14. On **August 6, 2012**, tragedy struck the City of Richmond, California, when the Chevron-owned and operated refinery, located in Richmond, experienced a catastrophic pipe

failure, which ruptured, released flammable hydrocarbon process fluid, and ignited into a ferocious fireball, covering much of the area.

15. In the aftermath of the fire, investigation has revealed that the pipeline that ruptured was a ticking timebomb, waiting ominously to erupt and wreak havoc on the City of Richmond. The refinery rupture was completely preventable. As detailed below, investigation into Chevron's safety record and knowledge of the defective condition of the pipe prior to the rupture has revealed that Chevron, at all times before the tragedy in Richmond, knew of the serious problems with the pipe, had the ability to remedy those problems and prevent the disaster, and yet repeatedly failed to do so, over the course of a decade, in conscious disregard of warnings of the risk of failure in the very pipe section that ruptured on August 6, 2012.

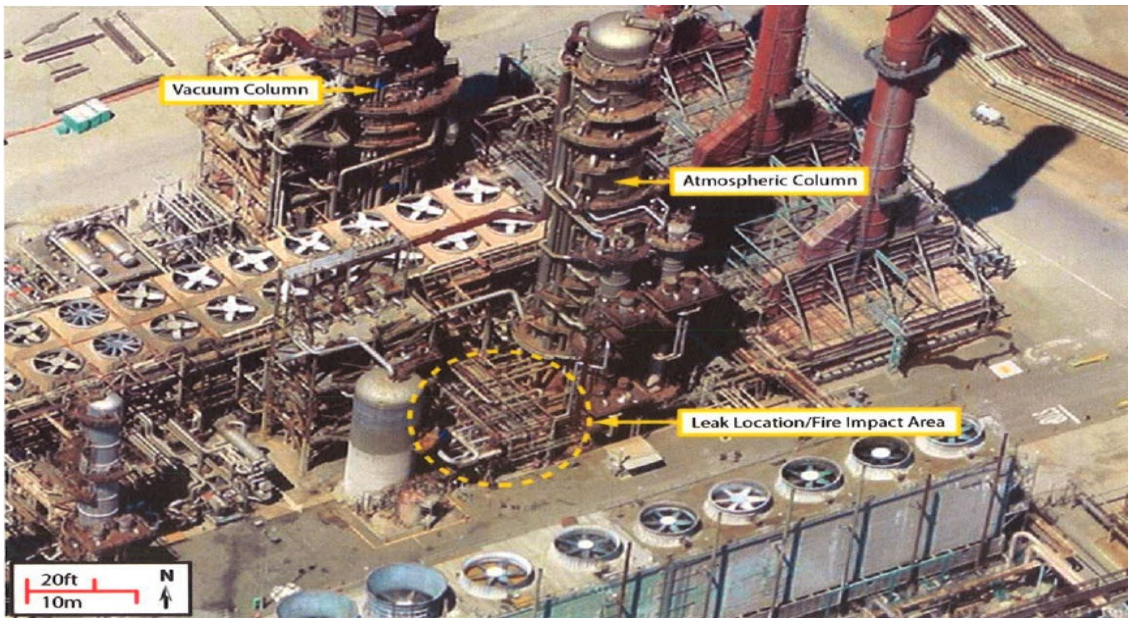
A. Overview of the Richmond Refinery

16. The pipeline that ruptured was part of Chevron's refinery located in Richmond, California. Chevron's Richmond Refinery is the company's second largest refinery and one of the oldest and largest refineries in the United States. Built in 1902, the refinery sits on nearly three thousand (3,000) acres of land. The map below shows the refinery and the surrounding areas.

17. When the Refinery was first built in 1902, the area surrounding the refinery was sparsely populated. Richmond, incorporated in 1905, numbered a mere 6,802 people in the 1910 United States Census. Now, the population exceeds 100,000 residents. In addition, more than 25,000 people live within three miles of the refinery. Within one mile of and abutting the refinery are businesses, houses, an elementary school, and playgrounds.

18. Despite the area's transformation from empty fields to bustling city, Chevron has failed to consider the ramifications of operating the Refinery under foreseeably dangerous and explosive conditions. Instead, Chevron continuously cut corners when it came to safety in order to maximize profits.

19. The pipe that ruptured on August 6, 2012, was on a 52-inch long component of the 8-inch diameter 4-sidecut pipe ("pipe") of Schedule 40 carbon steel that was installed in 1976. The pipe was located in the No. 4 Crude Unit. The No. 4 Crude Unit heats crude oil to temperatures above 700 degrees, vaporizing most of the crude and allowing it to separate into different components with different boiling ranges, each of which is then processed further in the other refinery processing units. The No. 4 Crude Unit has both an atmospheric distillation column and a vacuum distillation column. The leak occurred in equipment from the atmospheric distillation column.



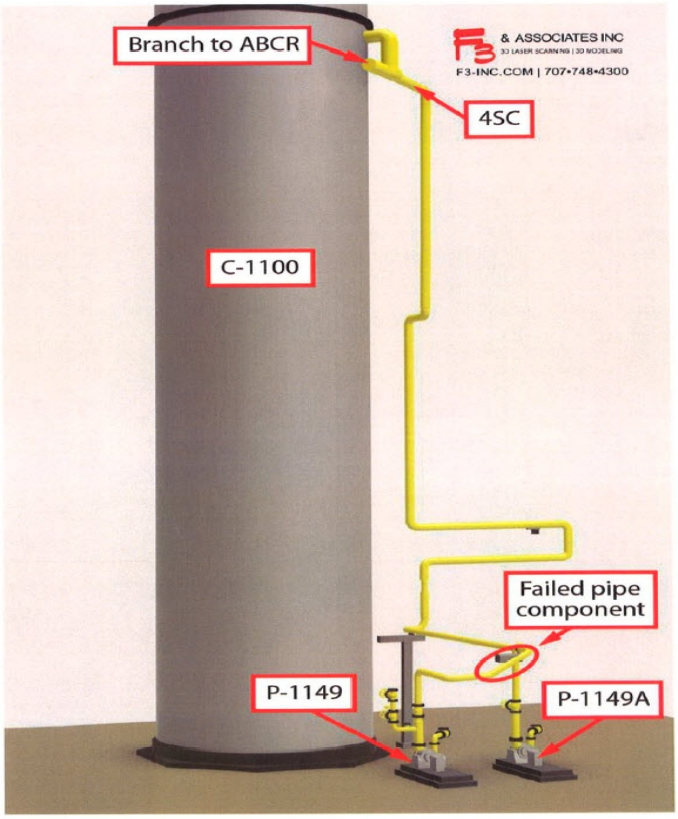


Figure 3. Three-dimensional model showing the 4SC and the ABCR drawn via a 20-inch nozzle from the C-1100. Note: the ABCR piping is not shown beyond the initial branch.

B. Chevron's Record of Safety Violations and Disregard for Public Welfare

20. The August 6, 2012 calamity is just the most recent example in a long list of Chevron incidents and safety lapses at the Refinery. For over 10 years, Chevron has had knowledge of the dangerous condition of the pipe that caused the fire, and yet has never bothered to remedy it. This is in line with Chevron's atrocious safety record and unfortunate practice of placing corporate profits before public safety.

1. *Chevron's Fourteen Separate Incidents Since 1989*

21. Since 1989, Chevron's Richmond refinery has released toxins into the air on approximately ***fourteen (14) separate incidents***, each time issuing an apology and promising the Richmond community that they will undertake safety improvements to assure that further releases will be avoided.

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22. On **April 10, 1989**, more than twenty-three years **before** the August 6, 2012 fire, an explosion and fire injured eight employees, with three seriously burned, and released smoke into the atmosphere for six days. This resulted in the release of toxins over Richmond.

23. On **June 1, 1989**, a flash fire in the refinery's wax-blending section resulted in two injuries and released toxins over Richmond.

24. On **November 11, 1990**, a mechanical fitting broke, releasing hydrogen sulfide into the atmosphere over Richmond.

25. On **October 30, 1991**, a pump fire resulted in two injuries and toxins released into the air. The citizens of Richmond then inhaled these dangerous toxins.

26. On **December 5, 1991**, an explosion released forty tons of toxic dust over a sixteen square mile area of Richmond. The citizens of Richmond then inhaled these dangerous toxins.

27. On **December 19, 1991**, the refinery released sulfur dioxide into the air. This resulted in the release of toxins over Richmond and the inhalation of these toxins by Richmond residents.

28. On **February 22, 1992**, a leak caused a fire in the gas processing unit requiring Chevron firefighters and the Richmond Fire Department to respond. This resulted in the release of toxins over Richmond and inhalation of toxins by Richmond residents.

29. On **June 23, 1992**, a hydrocarbon cloud erupted from a processing unit during a system shutdown. This resulted in the release of toxins over Richmond.

30. On **April 13, 1994**, a fire seriously injured one man when a pump ignited in the solvent de-asphalting unit. This resulted in the release of toxins over Richmond.

31. On **April 13, 1997**, a leak in a hydroprocessing plant released hydrocarbons and gas into the atmosphere, prompting a shelter in place. Richmond residents were then forced to inhale these toxins in the air.

32. In **March 1999**, an explosion unleashed a cloud of fumes, causing more than 1,200 Richmond residents to seek medical treatment at hospitals for labored breathing and irritated eyes.

33. In **May 1999**, a blown valve stem sparked a major fire that left two people with minor injuries and sent smoke over much of the northern Bay Area. Residents of Richmond were again surrounded by toxins in the atmosphere.

34. A **1999 EPA investigation** revealed that the Richmond refinery had the highest number of unreported leaks nationwide, allowing pollutants to escape from leaky valves and releasing hazardous fumes into the air. According to the EPA, Chevron reported a 2.3 percent leak rate while its actual leak rate was 10.5 percent. This violation of the Clean Air Act exposed Richmond residents to tremendous amounts of harmful air pollution and allowed Chevron to skirt federal replacement or repair requirements for discovered leaks.

35. In **January 2007** at 5:18 a.m., an explosion and fire occurred at the Richmond refinery in the same No. 4 crude unit that caused the 2012 incident. The pipe, which was also installed in approximately 1976, exhibited severe sulfidation corrosion. The leak caused an explosion and ignited a fire that lasted nearly ten (10) hours and shot 100-foot flames into the air. According to investigators, the corroded pipe should have been replaced two decades before the 2007 explosion. This explosion mirrored the August 6, 2012 fire and yet again resulted in the release of toxins in the Richmond air.

2. *Millions of Dollars Diverted from Important Safety Upgrades*

36. Chevron has continually pledged to regulators that it will spend millions of dollars to repair or replace its aging refinery infrastructure, and has consistently failed to do so. Such proclamations are in sharp contrast to Chevron's actions, including lavish spending on lobbying efforts and executive bonuses.

C. Chevron Ignored Dangers of Sulfidation Corrosion, Culminating In Disaster

1. *Sulfidation Corrosion Is A Well-Recognized Danger to Carbon Piping*

37. Sulfidation corrosion is a damage mechanism that causes thinning in iron-containing materials. It is caused by the chemical reaction between iron and sulfur to form iron sulfide, generally at temperatures above 450 degrees Fahrenheit, which destroys pipe material and causes wall loss.

38. Sulfidation corrosion was first observed in the late 1800s in crude separation units and was due to the naturally occurring sulfur compounds found in crude oil. When heated for separation, the various fractions in the crude were found to contain sulfur compounds that corroded the steel equipment.

39. Variables that affect sulfidation corrosion rates in crude oil distillation are: (1) the total sulfur content of oil; (2) sulfur species present in the oil; (3) temperatures of the system; (4) flow conditions; and (5) the composition of the steel.

40. Virtually all crude oil feeds contain sulfur compounds and, as a result, sulfidation corrosion is a damage mechanism present at every refinery that processes crude oil. The amount of sulfur can alter the rate of corrosion.

41. The weight percent (wt%) of chromium and silicon found in steel can greatly impact the rate of sulfidation corrosion by reducing the reaction rate between sulfur compounds and iron.

42. Steel alloys containing greater than 2 wt% chromium produce a protective scale that inhibits the reaction between the iron and sulfur compounds, thereby reducing corrosion rates. With each increasing percentage of chromium, the reaction is further slowed, greatly diminishing corrosion rates. The carbon steel pipe that ruptured on August 6, 2012, was manufactured with a maximum concentration of 0.40 wt% chromium, corroding at a rate that is significantly faster than other, safer materials.

43. As early as 1974 – nearly forty years before the August 6, 2012 fire – the refining industry has been aware of increased rates of sulfidation corrosion in low-silicon carbon steel piping. Industry experience has shown that carbon steel composed of above 0.10-wt% concentration of silicon will inhibit sulfidation. Carbon steel piping containing silicon content less than 0.10 wt% can corrode at accelerated rates, up to sixteen times faster than carbon steel piping containing higher percentages of silicon, as illustrated in the graph below.

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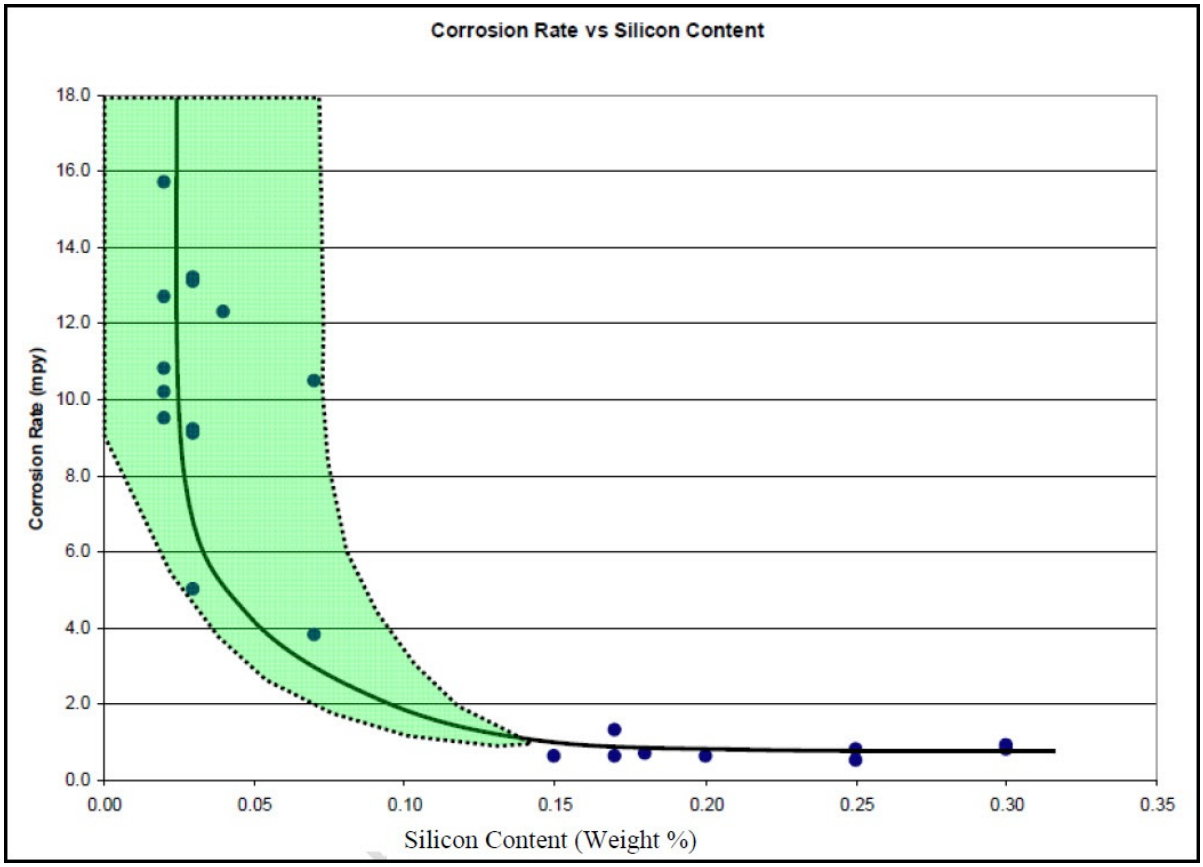
44. Based on this knowledge, the industry is aware that there can be wide variations in corrosion rates in a single carbon steel piping system composed of individual components with different silicon contents even if the components are exposed to the same process conditions. The ruptured pipe component had a silicon content of approximately 0.01 wt% and the adjacent elbow had a silicon content of 0.16 wt%.



2. *Chevron Ignored Industry Concerns*

45. In May 2009, the American Petroleum Institute ("API"), a prominent industry trade organization which develops widely used safety guidance documents for oil production and refining, published the first edition of its Recommended Practice 939-C, "Guidelines for Avoiding Sulfidation (Sulfidic) Corrosion Failures in Oil Refineries." This recommended practice was developed under the leadership of Chevron.

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46. The American Petroleum Institute 2009 guidance on sulfidation corrosion notes that sulfidation corrosion rates are extremely hard to predict, particularly as refineries use differing crude slates in response to market conditions. The difficulty in predicting corrosion rates underscores the need for choosing the safest materials of construction, since inspections based on predicted corrosion rates may not prove to be reliable.

47. The API noted that the industry relied on graphical curves (the "modified McConomy curves") to predict sulfidation corrosion rates, but due to uncertainties in the data the guidance document acknowledges that the curves can inaccurately forecast the actual corrosion rate by up to a factor of ten. The API states that "despite the industry's best efforts, the accurate prediction of . . . sulfidation corrosion rate for a specific crude oil and its fractions is an elusive technical challenge" – further supporting the importance of choosing inherently safer materials rather than relying primarily upon inspection and detection of emerging corrosion.

48. The guidance acknowledges that due to global economic factors, refineries may use many different crude stocks in the course of a year, complicating efforts to predict corrosion rates.

3. ***Chevron Repeatedly Dismissed Recommendations By Its Own Metallurgists***

49. Earlier released draft versions of the 2009 API guidance were made available to Chevron, and in 2007 Chevron's Energy Technology Company ("ETC") developed an internal document entitled "Guidelines for Preventing Sulfidation Corrosion Failures in Chevron Refining: Comparison of API RP 939-C and Chevron Practice - Rev. 0." This 2007 Chevron document states that the API draft recommended practice was the result of "repeated sulfidation corrosion failures in the refining industry." According to the document, "failures of refinery equipment due to sulfidation can often have severe consequences such as ruptures, blow-outs, and fires."

50. The 2007 Chevron document also acknowledges the role of both a high sulfur content and a low silicon content (for carbon steel) in promoting sulfidation corrosion. In

a section entitled "Guidelines for New Construction: Materials of construction for high-temperature service," the 2007 document states that 300 series stainless steels are one of the recommended choices because they "virtually eliminate sulfidation corrosion."

51. In a formal report dated September 30, 2009, Chevron's ETC metallurgists created an internal document on the subject of sulfidation titled "Updated Inspection Strategies for Preventing Sulfidation Corrosion Failures in Chevron Refineries." In the report, sulfidation experts acknowledged that, "Until now, Chevron has not directly addressed the risk of low Si[licon] carbon steel. . ." The report recommended that inspectors perform 100 percent component inspection on high temperature carbon steel to minimize the dangers of sulfidation corrosion.

52. The 2009 report also addressed the likelihood of a rupture or catastrophic failure from unmonitored sulfidation corrosion, stating:

> Sulfidation corrosion failures are **not common in Chevron or in the industry but they are of great concern** because of the comparatively high likelihood of blowout or catastrophic failure . . .This can happen because corrosion occurs at a relatively uniform rate over a broad area so a pipe can get progressively thinner until it actually bursts rather than leaking at a pit or local thin area. In addition the process fluid is often above its autoignition temperature. The combination of these factors means that sulfidation corrosion failures frequently result in large fires . . . [S]everal case histories of sulfidation corrosion failures that have occurred in Chevron or in the industry several of which are blowouts.

53. Chevron ETC experts issued a corporate newsletter in 2010 that reiterated the 2009 report about the danger of sulfidation corrosion. The newsletter also emphasized the danger more strongly than the 2009 report as it stated:

> Sulfidation corrosion failures . . . are of a great concern because of the comparatively high likelihood of "blowout" or catastrophic failure. This typically happens because corrosion occurs at a relatively uniform rate over a broad area, so a pipe can get progressively thinner until it actually bursts rather than leaking at a pit of local thin area. In addition, the process fluid is often above its autoignition temperature. The combination of these factors means that sulfidation corrosion failures frequently result in large fires. **Chevron and the industry have experienced numerous failures from this mechanism and recent incidents have reinforced the need for revised inspection strategies and a robust [Positive Materials Identification] program**.

54. The 2010 newsletter again stressed the need to conduct 100 percent component inspections of high risk piping systems. However, this recommendation was not

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implemented at the Richmond refinery despite a long history of sulfidation corrosion incidents.

4. *Chevron Ignored Safety Citations in Its Own Internal Audits*

55. In a March 2012 corporate audit of the Richmond Refinery – just five months before the August 6, 2012 rupture – Chevron experts found that Richmond Refinery officials were ignoring the company-wide 2009 mandate to install monitors at proper locations along pipe systems to track corrosion or conduct 100 percent component-by-component inspections to identify susceptible and vulnerable pipes. The internal audit faulted Richmond Refinery managers for vetoing "critical inspection recommendations" made by engineers during Refinery shutdowns and failing to implement the company's own standards and recommendations.

5. Chevron's Inspection Techniques Were Woefully Inadequate

56. The Chevron Richmond refinery is required to conduct a process hazard analysis under the California Code of Regulations Title 8 Section 5189: Process Safety Management of Acutely Hazardous Materials (1992). The Process Hazard Analysis ("PHA") identifies, evaluates, and controls the hazards involved in the refinery process.

57. Historically, the sulfidation corrosion monitoring techniques required the measurement of pipe thickness at only a minimal number of permanent Condition Monitoring Locations (CML) along the piping. Chevron placed these CMLs on elbows and fittings which, due to details of the manufacturing process, generally contain high percentages of silicon. This is evident by the 0.01 wt% silicon content of the ruptured pipe compared to the 0.16 wt% silicon content of the adjacent elbow. When measurements are only taken at high-silicon containing fittings, Chevron failed to identify, evaluate, and assess high corrosion rates within a pipe circuit. To properly assess the silicon content in each component of a piping system, each component must be individually inspected, as recommended by Chevron ETC in 2009 and 2010.

58. Despite Chevron's trained metallurgists, materials engineers, and piping inspectors, experts in sulfidation corrosion did not participate in the crude unit PHA and were

not involved in decisions to control sulfidation corrosion in the Richmond Refinery. Instead, these experts were part of the Chevron ETC, a separate business unit that provides technology solutions and technical expertise for Chevron operations worldwide. By isolating the sulfidation corrosion experts, Chevron continually removed knowledgeable professionals from the safety analysis. In addition, the individuals that conducted the inspections did not consider or adopt the findings and recommendations in the studies, reports, and newsletters created by the ETC.

D. Since 2002, Chevron Knew It Needed to Replace the Corroded Pipe

59. Chevron had numerous opportunities to properly inspect, identify, evaluate, and replace the ruptured pipe. In fact, in the ten years preceding the August 6, 2012 incident, Chevron personnel with knowledge and understanding of sulfidation corrosion made ***at least six recommendations to increase inspection or upgrade the pipe that ruptured***. Chevron intentionally and deliberately disregarded recommendations that would have prevented the August 6, 2012 rupture and fire. It also ignored similar incidents that alerted Chevron to the dangers of sulfidation corrosion in the No. 4 crude unit.

1. *2002 "Save"*

60. In August 2002, a Chevron Richmond Refinery employee analyzed sulfidation corrosion rates and identified potentially vulnerable areas. The employee indicated that the pipe operating temperature had been increased and concluded that this increase would cause more hydrogen sulfide and increased sulfidation corrosion. As a result, the employee recommended increased inspection and replacement of the carbon steel to 5-Chrome, a steel alloy that is more resistant to sulfidation corrosion.

61. In 2002, pro-actively following up on the study, the crude unit inspector conducting additional piping inspection and identified accelerated corrosion in the 52-inch 4-sidecut component. The inspector recommended upgrading this pipe during the 2007 scheduled shutdown. The recommendation was not implemented in 2007, and because a CML was not added to the inspection program, the 52-inch component was not inspected after 2002.

62. In 2002, Chevron management acknowledged the inspector's efforts to prevent a significant incident and characterized the inspector's discovery as "a save," but then Chevron failed to implement the inspector's recommendations.

2. *2006 Recommendation*

63. A February 2006 Corrosion Mitigation Plan for the Chevron Richmond Refinery crude unit, issued by a team consisting of a materials corrosion engineer, an inspector, a process engineer, a metallurgist, and a design engineer, identified the 4-sidecut piping to be at risk for high temperature sulfidation corrosion.

64. The plan recommended that 100 percent component inspection be performed on the 4-sidecut line using continuous monitoring technology. However, the 100 percent component inspection recommendation was not performed. Had one been performed, the drastically thin walls of the subject pipe would have been discovered since such an inspection required the measurement of each and every pipe component.

3. *2007 Pipe Rupture*

65. In January 2007 at 5:18 a.m., an explosion and fire occurred at the Richmond refinery in the same No. 4 crude unit that leaked and caused the 2012 incident. The pipe, which was also installed in approximately 1976, exhibited severe sulfidation corrosion. The leak caused an explosion and ignited a fire that lasted nearly ten hours and shot 100-foot flames into the air. According to investigators, the corroded pipe should have been replaced two decades before the 2007 explosion.

66. The 2007 incident involved a pipe in the same crude unit and installed in the same year as the August 6th pipe. Such an incident should have alerted Chevron that other similar pipes were susceptible to sulfidation corrosion. When Chevron discovered high amounts of corrosion, instead of increasing its inspections of similar pipes, it continued to operate the pipe component without thorough inspections.

4. *2007 Advice*

67. During the 2007 inspection, the crude unit inspector advised that the refinery upgrade the entire 4-side cut piping with 5-Chrome based on observations during the 2002

inspection where the inspector observed a one-third loss in the wall thickness due to corrosion.

68. This advice was not accepted because the Chevron analysis team, basing its decision on limited inspection data, determined that the piping had sufficient wall thickness to last until the next inspection, scheduled for Fall 2011. However, pipe downstream of the ruptured pipe was considered to have insufficient wall thickness and was replaced with 9-Chrome, an inherently safer metal.

5. *2009 High Priority Piping*

69. In September 2009, Chevron ETC recommended 100 percent component thickness testing to be completed on all high priority lines one time to identify thin, low-silicon components to establish a baseline of corrosion rate and risk for failure.

70. Following the report, the Chevron Richmond Refinery materials group completed the risk-ranking of the crude unit and identified the subject pipe as a high risk pipe per the report ranking guide. Instead of completing the 100 percent component inspection, the 4-sidecut pipe was recommended for replacement with 9-Chrome. This replacement was denied because available, but limited, inspection data indicated the piping would last until the next turnaround. The 100 percent component inspection was also not performed.

6. *2011 Review*

71. Before a turnaround or inspection, Chevron's "Intensive Process Reviews" identify the key unit issues that should be addressed and repaired during the unit turnaround. This review is conducted by Business Improvement Network leaders, process engineers, metallurgical engineers, design engineers, and turnaround planners.

72. Prior to the 2011 turnaround, these knowledgeable reviewers recommended that the 4-sidecut carbon steel piping be upgraded to 5-Chrome due to sulfidation. Chevron again ignored this recommendation. Instead, the turnaround management team determined that the inspection data available for the 4-sidecut piping, from CMLs on elbow components which are less prone to sulfidation corrosion, did not yet support a material upgrade. The

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team did not consider the lack of data on the more susceptible 4-sidecut straight-run piping components as a missing factor in its assessment.

7. *2011 Recommendation*

73. Based on the high priority ranking of the piping, the corrosion history, as well as Chevron and industry recommended best practice, a crude unit inspector and crude unit metallurgist recommended that the 4-sidecut line be replaced with 9-Chrome, the metallurgy recommended in the Chevron new construction guidelines for piping containing high temperature, high sulfur fluids.

74. Chevron's repeated failures to properly inspect, assess, evaluate, monitor, and replace the pipe demonstrates the company's disregard for safety issues. The failure of Chevron's inspection program to avert the preventable August 6, 2012 pipe failure also underscores the importance of using inherently safe materials of construction wherever feasible in the design and construction of highly hazardous chemical processes, a precaution Chevron turned a blind eye to.

8. *2011 Unchecked Corrosion*

75. When a Chevron employee informed Cal/OSHA that there were unsafe working conditions because of unchecked corrosion in the unit, Cal/OSHA investigated the claim. When Cal/OSHA inspectors visited the refinery in November 2011, the refinery's maintenance manager and managers on the plant's safety team acknowledged that corrosion had caused the rupture of a carbon steel pipe and an October 2011 fire that broke out during a shutdown of the crude unit.

76. The October 2011 fire was caused by corrosion in a pipe elbow installed in 1983 and made of the same pipeline material of the 1976 pipe that ruptured in August 2012. During the investigation, Cal/OSHA stated that the 1983 pipe that ruptured in October 2011 "was made of the wrong type of metal for the type of corrosive crude oil flowing through it, creating a risk of fire and breakdown."

77. Armed with knowledge of improper metals used in processing a corrosive product in one part of the refinery, Chevron was obligated to investigate other metals used

in processing corrosive products throughout the refinery to assure their safety. Chevron did not.

E. While It Refused to Spend Money On Safety, Chevron Spent Millions on Lobbying and Executive Compensation While Increasing Its Profits

78. While Chevron claims that it has not been able to find the money to fund critical repairs to its aging refinery, it has been able to locate substantial funds for other profligate spending, including exorbitant executive compensation and massive lobbying efforts.

79. Chevron has spent millions recently to keep pro-energy candidates in the California and federal governments. Chevron spent $7.2 million on the 2012 campaign in California. Chevron also spent $2 million on 2012 federal candidates' campaigns alone.

80. On October 7, 2012, Chevron donated $2.5 million to the Congressional Leadership Fund, a super PAC focused on backing Republican candidates for the House with close ties to Republican Speaker of the House John Boehner. The gift was the largest contribution from a publicly traded corporation to a political group since the 2010 Supreme Court ruling *Citizens United v. Federal Election Commission* that determined companies could spend unlimited money on elections.

81. Chevron also spends millions on its lobbying efforts in order to keep its interests protected in both the California and the federal arenas. Chevron employs eight lobby and law-lobby firms. It spent $5.6 million in California on the 2011-2012 legislative session, ranking sixth among all employers of lobbyists. In 2012, Chevron spent a total of $9.55 million on lobbying Congress, the fourth highest corporate spender. In 2011 and 2012, Chevron spent **$19.1 million** on lobbying the federal government, largely to block legislation that would end polluters' ability to emit greenhouse gas pollution for free or take away tax breaks for oil companies. Chevron continues to pour money into lobbying efforts as exemplified by the $3.66 million it spent in the first quarter of 2013.

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82. In 2011, Chevron spent **$71.7 million** to compensate its five top executives with **$52.8 million** of that to compensate its **top three executives**. This grew to **$75.3 million** and **$61.39 million**, respectively, in 2012.

83. Chevron's Chief Executive Officer (CEO), John Watson, whose term began on January 1, 2010, had a starting compensation of $16.3 million. Mr. Watson replaced David O'Reilly, who was CEO since 2000 and was the fifteenth highest paid United States CEO, making nearly $50 million in total 2008 compensation. In 2011, Mr. Watson received about $25 million in total compensation – up 52% from his 2010 starting compensation. This increased to $32 million in 2012 – a 22% increase from 2011.

84. Despite presiding over the company during the August 6, 2012 Richmond refinery fire and the scathing indictments hurled by state and federal regulators, Chevron awarded Mr. Watson a massive bonus. In April 2013, Chevron announced it would award Watson a $3.5 million cash bonus for achieving Chevron's $26.2 billion profit in 2012. Such actions clearly reveal Chevron's top priorities, with safety not being one of them.

85. Chevron has been similarly generous to other executives. In 2011, Chevron's Vice President since 2010, George L. Kirkland, received $16.5 million in total compensation, and Patricia Yarrington, Chief Financial Officer (CFO) since January 2009, earned $11.3 million in total compensation. In 2012, these executives received $18.7 million and $10.4 million, respectively.

86. Even with all of this extravagant spending and failed lobbying efforts, Chevron managed to turn a solid **$26.2 billion** in profit in 2012. This had dropped slightly from Chevron's 2011 profits of $26.9 billion, which were *up 23% from 2010 profits*. **Overall profits have increased 1581% from 2002 to 2010**. In February 2013, Chevron posted $7.2 billion for the quarter – the biggest fourth quarter profit in the company's history.

87. Forbes ranked Chevron as fifth largest global corporation in terms of global profits (after Exxon Mobil, Apple, Gazprom, and Royal Dutch Shell). With $236.3 billion in 2011 sales, Forbes also named Chevron the twelfth largest global corporation in 2012.

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88. The Richmond Refinery contributes significantly to Chevron's overall revenues and profits. Based on Plaintiff's estimation, the Richmond Refinery contributed approximately 16.5% to the U.S. downstream annual production in 2012, or approximately $583 million. Based on Plaintiff's estimation, the Richmond Refinery contributed approximately 21.6% to the U.S. downstream annual production in 2011, or approximately $328 million.

89. Given its financial position as one of the world's largest and most profitable companies, it is reprehensible that Chevron failed to perform the scheduled and detailed inspections and replacement of its equipment called for herein.

F. Culmination of Chevron's Failure To Make Repairs and Continual Disregard for Public Safety: The August 6, 2012 Richmond Refinery Fire

90. On August 6, 2012 at approximately 3:48 p.m., a Chevron Plant Operator (PO1) discovered a leak on an 8-inch diameter 4-sidecut pipe of Schedule 40 carbon steel. When the leak was first discovered, the leak rate was estimated at 20-40 drips per minute. After twenty minutes, Chevron employees reduced the flow to the pipe while crews investigated the leak; however, Chevron personnel did not shutdown the crude unit. Chevron knowingly and deliberately continued operation despite knowledge that its failure to immediately shut down the unit and halt production would cause the continuing release of toxic pollutants into the neighboring communities.

91. At 6:28 p.m., due to the high temperature, in excess of 600 degrees Fahrenheit, and physical properties of the material in the equipment, the toxic gas-oil immediately formed a large hydrocarbon vapor cloud that expanded to more than 200 feet wide and 200 feet high, surrounding a dozen employees. At that time, Chevron officials ordered the refinery unit shut down. Due to Chevron's delayed decision to shut down the unit, the vapor

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cloud ignited into a ferocious fireball and subsequent gigantic plume cloud of toxic smoke at 6:32 p.m.

92. Chevron also intentionally elected not to notify and inform City of Richmond authorities or residents of the pending danger until after the fire erupted. It was not until at or around 6:38 p.m. when a shelter-in-place was ordered for Richmond, San Pablo, and North Richmond residents, which was not lifted until approximately 11:12 p.m. that night.

93. The fire burned for approximately five (5) hours while fire departments from Richmond, Contra Costa County, El Cerrito, Berkeley, Morega/Orinda, Hercules/Rodeo, Petro-Chemical Mutual Aid, Philips 66, Valero, Shell, Tesoro, and Dow responded to assist the Chevron firefighters.

94. The incident had a serious impact on the community. Thousands of people experienced eye, nose, and throat irritation as well as wheezing, headaches, and nausea. Approximately fifteen thousand residents visited nearby hospitals with such symptoms immediately following the incident, creating a massive drain on the medical professions' resources.

1. *Chevron's Sluggish Response to the Disaster*

95. At or around 3:48 p.m., an operator noticed a small leak from the insulated piping on the C-1100 Atmospheric Distillation Column of the 4 Crude Unit. The operator notified the Head Operator and Supervisor for the unit.

96. At 4:02 p.m., the Chevron Fire Department ("CFD") was notified that a leak had been discovered and was asked to deploy a crew to the location as a precaution. The CFD arrived at the location between 4:07 p.m. and 4:09 p.m. and initiated air monitoring and assessment. Upon arrival CFD personnel performed gas testing and determined that the atmosphere around the leak was not flammable based upon a Lower Explosive Limit reading of 2%. CFD personnel completed a Scene Safety and Action Plan form, but they did not complete a Hazard Material Data Sheet for this leak as directed by the Scene Safety and Action Plan form. In addition, CFD placed its engine, Engine Foam 60, too close to the leak source.

97. At 4:19 p.m., Operations personnel confirmed that the leaking section of the pipe could not be isolated on the upstream side. Between 4:20 p.m. and 6:24 p.m.,

Operations personnel, in conjunction with the CFD, investigated and assessed options. The three options were: (1) online repair potentially involving an engineered clamp; (2) a routine shutdown; or (3) an emergency shutdown. Chevron personnel aimed to conduct an online repair since it would avoid shutting down the unit and hindering production.

98. To assess the online repair option, it was concluded that the weather jacketing and pipe insulation needed to be removed so the leak could be visually assessed. Due to the location and elevation of the horizontal section of pipe (approximately 13 feet above the ground), Chevron personnel developed a plan to remove the insulation, which involved erecting scaffolding below the leaking pipe to allow better access. Constructing the scaffolding took approximately one hour to accomplish. Once the scaffolding was erected, Chevron personnel instructed CFD firefighters to scale the scaffolding and hand-remove the weather jacketing and insulation.

99. Due to a shift change, there was not a single meeting where all parties involved could collectively consider the potential risks and outcomes. Therefore, the response and assessment after the discovery of the leak did not fully recognize the risk of piping rupture being present.

100. At the same time, due to the inability to isolate the leak and the uncertainly about the option for online repair, Operations personnel directed a routine shutdown of the pipe.

101. At approximately 6:22 p.m., when the second sheet of weather jacketing was removed, a small flash fire occurred on the insulated piping. The CFD and Plant Operators extinguished the fire. In response to the flash fire, the firefighters descended the scaffolding, leaving the oil-soaked insulation in place. The CFD continued to maintain a stream of water directed at the oil-soaked insulation.

102. At some point shortly before 6:25 p.m., when the water stream was briefly stopped to assess the insulation removal, CFD observed that the volume of material being released had abruptly increased and was beginning to smoke.

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103. At 6:27 p.m., the order was given for an emergency shutdown of the unit. Personnel began evacuating the area. At 6:29 p.m., the Control Board Operator activated the hand switches for an emergency shutdown.

104. At approximately 6:30 p.m., the leak rapidly worsened and a large white vapor cloud approximately 1,100 feet wide and approximately 1,200 feet high formed and quickly enveloped the pipe and downwind processing plants.

105. At or around 6:32 p.m., the fire ignited from the white vapor cloud. The rupture sent a plume of fire and cloud of black smoke thousands of feet into the air. For over four hours, the fire continued to burn until emergency responders were finally able to control the fire at approximately 10:15 p.m.

106. At 6:38 p.m., a Community Warning System Level 3 alert was initiated by Chevron which warned residents of Richmond, San Pablo, and North Richmond to shelter in place by remaining indoors. The shelter-in-place was not lifted until 11:12 p.m. During that period, BART stopped carrying passengers to Richmond, stranding passengers in outlying stations.

107. On the day of the accident, Chevron should have shut down the crude unit as soon as a leak was observed, removed workers to a safe location, and notified Richmond officials and residents. Rather than shutting down a unit containing a severely corroded and leaking pipe and losing revenues, Chevron managers decided to "rig it." In the process of Chevron's "quick fix,"the pipe ruptured, releasing a fireball and greatly threatening the City of Richmond and its residents.

2. *Failure To Properly Maintain and Inspect the Pipe*

108. Utilities like Chevron are responsible for conducting regular inspections, maintaining the safety of their infrastructure, and making any repairs or replacements to comply with industry standards. Chevron utterly failed to comply with this duty. Prior to the rupture, Chevron knew and/or should have known that the pipeline was in a dangerous condition, including, but not limited to, the fact that the pipeline was highly susceptible to sulfidation corrosion.

109. Chevron knew, as early as 1974, that sulfidation corrosion threatened crude unit piping. Chevron was then reminded and advised to inspect or replace the subject pipe more than six times since 2002. Two similar incidents involving sulfidation corrosion in the same crude unit to similar pipes should have also warned Chevron of the ticking timebomb of such dangerous pipes. The Chevron ETC also reported on the catastrophic dangers of sulfidation corrosion in 2007, 2009, and 2010. Instead, Chevron deferred replacing the severely corroded pipe, a choice that directly led to the August 6, 2012 fire.

110. Had Chevron properly inspected and/or replaced the pipe, it would have discovered the dangerous condition of the pipe. The ruptured section had a measured wall thickness of 0.070-inch at its maximum and 0.012-inch at its minimum. Based on the pipe type, the original thickness of the 8-inch pipe would have been 0.322-inches. Such extreme thinning represented a 90 percent (90%) loss of wall thickness between 1976 and 2002.

111. Chevron also knew that its pipe was carbon steel – a metal that is much more susceptible to sulfidation corrosion than safer materials, such as 5-Chrome or 9-Chrome. The ruptured pipe had a maximum concentration of 0.40 wt % chromium, a chemical that slows sulfidation corrosion. On the other hand, 5-Chrome and 9-Chrome have 5 wt% chromium and 9 wt% chromium, respectively.

112. Chevron also knew that the pipe was from 1976 and it was not until 1985 that pipe manufacturers began producing carbon steel in compliance with manufacturing specifications calling for a minimum silicon content of 0.10 wt%. The silicon content of the ruptured pipe was only 0.01 wt%. Such low silicon content greatly exacerbated the rate of sulfidation corrosion.

113. In addition, Chevron failed to take its own experts' recommendations to conduct 100 percent component inspections to monitor the wall thickness of each component. Instead, Chevron continued to use CMLs to monitor corrosion, despite industry knowledge that CMLs were located on high-silicon content elbows and fittings rather than the more susceptible straight-run pipes.

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114. Instead of using up-to-date materials and/or reliable methods of pipe inspection, Chevron used significantly less expensive, old and outmoded methods of pipe testing, resulting in critical oversights in the safety of the Richmond Refinery while maximizing Chevron's profits. Chevron also deferred replacement and repairs to minimize costs.

3. ***Chevron's Failure Led to Uncertainty for the City of Richmond and Its Residents***

115. Chevron's consistent lack of interest in working with local government to protect the public's safety also contributed to the problem. Chevron did not alert residents or authorities of the dangerous release of dangerous toxins into the air until 6:38 p.m. – almost ***three hours after the discovery of the leak and after the fire was visible from as far away as San Francisco.***

116. When the fire erupted, instead of notifying local officials in order to efficiently utilize the combined response efforts of Chevron and government emergency response crews, response teams struggled to comprehend the disaster as it unfolded, scrambling to contain the fire.

117. Chevron did not provide useful information, leaving members of the public, emergency responders, and medical professionals without adequate information regarding the severity of the incident, potential effects of toxic materials released, and recommended courses of action. This prevented the public from taking protective actions and created uncertainty among the entire City of Richmond and surrounding areas.

4. ***Even After The Richmond Refinery Tragedy, Regulators Continued to See Dangerous Safety Omissions***

118. Chevron repeatedly chose to sacrifice safety by cutting corners, making "temporary" fixes, and delaying safety projects. During post-fire investigations, investigators identified leaks in pipes that Chevron had clamped as a temporary fix. In some cases the clamps remained in place for years, and the pipes were never replaced. Cal/OSHA found nine makeshift repairs of pipe leaks by applying clamps. Obviously the August 6, 2012 fire has not altered Chevron's lackadaisical approach to safety.

G. The Damages Suffered by the City of Richmond Are Significant

119. Chevron's failure led to uncertainty and costly expenses for the City of Richmond and its residents. In order to make the City of Richmond whole again, Chevron must be held responsible for its continued disregard of public health, safety, and welfare to "the amount which will compensate for all the detriment proximately caused thereby" per CC § 3333.

1. *Richmond Incurred Costs Related to Emergency Response, Fire Suppression, and Permitting*

120. A number of public fire agencies, including the Richmond Fire Department, responded to the fire, resulting in significant emergency response costs. Public officials, such as police officers and other responders, were required to respond to traffic disruption and public order. These damages included, but are not limited to:

(a) costs of emergency services at the scene including warnings, directing traffic and ensuring public safety;

(b) costs of investigating the cause of this incident and preventing future harm;

(c) administrative costs notifying the public and ensuring their safety;

(d) wear-and-tear on emergency response equipment; and

(e) reduced fire resources available to the public.

121. Richmond also incurred permitting costs associated with Chevron's rebuilding of the destroyed crude unit, such as expenses for agency coordination, community meetings and hearings, and the permitting itself.

2. *Richmond Has Continuously Dealt with Environmental Damages Related to Toxic Releases from the Refinery*

122. The August 6, 2012 fire is another example of Chevron intentionally, recklessly, and/or negligently releasing toxins, smoke, soot, and ash into the atmosphere surrounding Richmond. These toxic releases damage the environment and cause the City of Richmond to incur significant costs, such as:

(a) disposal of materials/contaminants;

(b) actions necessary to prevent, minimize of mitigate damage to a public place;

(c) measures to prevent, minimize or mitigate harm to public health, or welfare or to the environment;

(d) security fencing or other measures to limit access, provisions for alternative water supplies, evacuation, housing, storage confinement, perimeter protection, trenches, neutralization, clean-up, treatment and/or monitoring reasonably required to ensure the protection or property, public health and welfare and environment;

(e) operation, safety management and maintenance activities performed in connection with the investigation or monitoring of site conditions, clean-up, treatment, remediation or other work required to be performed due to the presence or suspected presence of any contaminant in the air, soil, surface or groundwater; and

(f) all oversight, administration, enforcement, operation, investigation, monitoring, testing or other expenses incurred by the City or its consultants government agency or steering committee related to remedial work.

3. *Richmond Has Suffered Diminution of Property Values and Loss of Use and Enjoyment of Its Land*

123. Richmond has been tainted by the failure of Chevron to safely and responsibly operate its refinery. Richmond's property has suffered a loss of its fair market property value as a result of the August 6, 2012 fire and the continued release of toxins into the atmosphere over more than two decades.

124. Such ongoing threats to the public have also resulted in Richmond suffering harm to public health, obstruction of the free passage and use of property of public property, and the interference with the comfortable enjoyment of life or property.

125. During the August 6, 2012 fire, City of Richmond residents and employees were barred indoors because of the almost five-hour-long shelter-in-place enacted to mitigate damage to public health.

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126. August 6, 2012 is just one of many incidents that have reinforced the danger to public safety and public health that has greatly affected the way residents of Richmond interact with its public land. For example, residents of Richmond can no longer enjoy Richmond's public parks without fear of exposure to toxins and increased risk of asthma and other respiratory illnesses. Knowledge of these threats has impacted the property market and residents' ability to fully utilize the amenities of their city.

H. The Failed Air-Monitoring System

127. For years, Chevron has been promising the people of Richmond and neighboring cities that it would install comprehensive air-monitoring system. Over three years ago, Chevron finally agreed to put in a system that would monitor the air coming out of the refinery and alert people to dangerous excessive toxic pollutants. Chevron has not followed through with its promise.

128. Because of numerous prior fires and explosions and the community's concerns about toxic releases, the City of Richmond and others in the East Bay asked and demanded that Chevron employ air-monitoring devices to provide adequate warnings of toxic emission. Finally in or around 2010 Chevron agreed. In order to comply with its agreement with the City, Chevron promised to install both fence-line and community air-monitoring stations at the perimeter and in the neighboring communities of the Richmond refinery. The community air-monitoring system would track toxic gases emitting from the Richmond refinery and provide Chevron, the City, and the community with valuable information about any and all harmful emissions spouting from the refinery.

129. Although the equipment and systems were partially assembled and prepared, Chevron has failed to implement the air monitoring system. At the time of the August 2012 refinery fire, Chevron had yet to install the community air-monitoring stations. In November 2012, Chevron refinery management issued a letter committing Chevron to install and commence operation by the first quarter of 2013. Over four months after this promise, Chevron still has yet to implement its promised system, illustrating its continued disregard of the safety of the community and its unwillingness to warn the public when Chevron

continuously jeopardizes the public's health. Chevron continues to cause damage to the City of Richmond and the surrounding areas by failing to warn the public of toxic emissions released into the air. There have been over 18 Notices of Violation from the Bay Area Air Quality Management District issued against Chevron for maintenance air problems reported in the last two years.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION
(Negligence)

AS AND FOR A FIRST CAUSE OF ACTION against CHEVRON and/or DOES 1 through 10, Plaintiff alleges as follows:

130. Plaintiff incorporates and re-allege each of the paragraphs above as though fully set forth herein.

131. Plaintiff is informed and believes, and thereon alleges, that at the time of the subject accident, Chevron owned, operated, controlled, managed, and/or maintained the Richmond Refinery, as described above.

132. At all times prior to this incident, Chevron was required to exercise the utmost care and diligence in the ownership, operation, management, supervision, inspection, maintenance, repair, and/or control said Refinery, so as not to cause harm to public property, the environment, public resources, public health, and/or the comfortable use and enjoyment of life and liberty by the public.

133. At all relevant times, Defendant Chevron failed to exercise care in its ownership, operation, management, supervision, inspection, maintenance, repair, and/or control of said facilities, including, but not limited to, failing to properly inspect and replace the corroded pipeline and failing to comply with applicable safety standards.

134. As a further direct and legal result of the aforesaid premises, Plaintiff has suffered damages, including but not limited to costs for emergency response, fire suppression, and permitting in an amount according to proof and beyond the jurisdictional minimum of this Court.

135. As a further direct and legal result of the aforesaid premises, Plaintiff's property has suffered a loss of its fair market property value as a result of the August 6,

2012 fire and the continued release of toxins into the atmosphere over more than two decades.

136. As a further direct and legal result of the aforesaid premises, Plaintiff has suffered damage to environmental resources.

137. As a further direct and legal result of the aforesaid premises, Plaintiff has suffered harm to public health, obstruction of the free passage and use of property of public property, and/or the interference with the comfortable enjoyment of life or property.

138. Plaintiff did not consent to Chevron's conduct, which required the public to shelter-in-place for approximately four hours and created long-lasting, continuing, and/or permanent harm to public health, the environment, and property valuations.

139. The wrongful acts of Defendant Chevron were done maliciously, oppressively, fraudulently, and in conscious disregard of the safety and health of the community. Plaintiff is entitled to punitive and exemplary damages in an amount to be ascertained according to proof, which is appropriate to punish or set an example of Defendant and deter such behavior by Defendant and others in the future.

SECOND CAUSE OF ACTION

(Strict Liability - Ultrahazardous Activity)

AS AND FOR A SECOND CAUSE OF ACTION against CHEVRON and/or DOES 1 through 10, Plaintiff alleges as follows:

140. Plaintiff incorporates and re-alleges each of the paragraphs above as though fully set forth herein.

141. Chevron's activities in operating, controlling, managing, and/or maintaining the Richmond Refinery constitutes an ultrahazardous and abnormally dangerous activity, as maintenance of an outdated Refinery in a densely populated area poses a serious risk of harm, regardless of the amount of care exercised.

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142. As alleged herein, Plaintiff was seriously harmed which was a direct result of Chevron's ultrahazardous activities in operating and maintaining the Richmond Refinery.

143. Plaintiff's harm, as outlined above, was the kind of harm that would be anticipated as a result of the risk created by Chevron's abnormally dangerous activities, i.e., maintenance of an oil refinery, especially an old, dangerous, and shoddy refinery, in a densely populated area.

144. Chevron's ultrahazardous activity resulted in a leak and fire that emitted toxins, smoke, and other dangerous chemicals into the air, and was therefore a substantial factor in causing Plaintiff's harm.

145. As a direct and legal cause of the wrongful acts herein set forth, Plaintiff suffered damages as described above pursuant to paragraphs 132 through 137.

THIRD CAUSE OF ACTION

(Private Nuisance - Continuing)

AS AND FOR A THIRD CAUSE OF ACTION against CHEVRON and/or DOES 1 through 10, Plaintiff allege as follows:

146. Plaintiff incorporates and re-alleges each of the paragraphs above as though fully set forth herein.

147. Plaintiff owned, leased, occupied, and/or controlled property at or near the refinery in Richmond, California. Plaintiff has the inalienable right to own, enjoy, and use its property without interference by Defendant Chevron's conduct.

148. Defendant Chevron, by reason of its failure to exercise care in its operation and maintenance of the refinery, created a condition that harmed Plaintiff and interfered with Plaintiff's free use and enjoyment of its land, as Plaintiff, along with numerous other neighbors, have suffered the loss of the use and enjoyment of its property, in the form of damage to buildings and/or a significant decrease in the value of the property, and/or exposure to an array of toxic substances on the land, and/or a lingering smell of smoke, and/or constant soot, ash, and dust in the air.

149. An ordinary person of reasonable sensibilities would reasonably be annoyed and/or disturbed by the condition created by Defendant.

150. Plaintiff did not consent to Defendant's conduct. To the extent Plaintiff gave any express or implied permission for the maintenance of an oil refinery near its property, such permission extended only to a properly maintained, up-to-date, and safe refinery, and Chevron exceeded the scope of any such consent by operating a shoddy, dangerous, aging, and faulty refinery near Plaintiff's property.

151. The aforementioned conduct of Defendant constitutes a nuisance within the meaning of section 3479 of the Civil Code in that it is injurious and/or offensive to the senses of the Plaintiff and/or unreasonably interferes with the comfortable enjoyment of its property and/or unlawfully obstructs the free use, in the customary manner, of Plaintiff's property.

152. The seriousness of the injury to Plaintiff outweighs the social utility of Defendant Chevron's conduct, as Chevron could have taken several measures to prevent the harm that occurred while still refining oil.

153. As a direct and legal cause of the wrongful acts herein set forth, Plaintiff suffered damages as described above pursuant to paragraphs 132 through 137.

FOURTH CAUSE OF ACTION

(Private Nuisance - Permanent)

AS AND FOR A FOURTH CAUSE OF ACTION against CHEVRON and/or DOES 1 through 10, Plaintiff alleges as follows:

154. Plaintiff incorporates and re-alleges each of the paragraphs above as though fully set forth herein.

155. Plaintiff owned, leased, occupied, and/or controlled the property.

156. Defendant Chevron, by reason of its failure to exercise care in its operation and maintenance of the refinery, created a condition that permanently harmed Plaintiff and interfered with Plaintiff's free use and enjoyment of its land, as Plaintiff, along with numerous other neighbors, have suffered the loss of the use and enjoyment of its property,

in the form of damage to buildings and/or a significant decrease in the value of the property, and/or exposure to an array of toxic substances on the land, and/or a lingering smell of smoke, and/or constant soot, ash, and dust in the air.

157. An ordinary person would be reasonably annoyed or disturbed by Chevron's conduct.

158. Plaintiff did not consent to Defendant's conduct, which was a substantial factor in causing Plaintiff's harm.

159. The seriousness of the harm outweighs the public benefit of Chevron's conduct.

160. As a direct and legal cause of the wrongful acts herein set forth, Plaintiff suffered damages as described above pursuant to paragraphs 132 through 137.

FIFTH CAUSE OF ACTION

(Public Nuisance - Continuing)

AS AND FOR A FIFTH CAUSE OF ACTION against all CHEVRON and/or DOES 1 through 10, Plaintiff alleges as follows:

161. Plaintiff incorporates and re-alleges each of the paragraphs above as though fully set forth herein.

162. Defendant Chevron, by reason of its failure to exercise care in its operation and maintenance of the refinery, created a condition that harmed the public and interfered with the public's free use and enjoyment of public land, as Plaintiff, along with numerous residents and surrounding neighbors, have suffered the loss of the use and enjoyment of its property, in the form of damage to buildings and/or a significant decrease in the value of the property, and/or exposure to an array of toxic substances on the land, and/or a lingering smell of smoke, and/or constant soot, ash, and dust in the air.

163. An ordinary person of reasonable sensibilities would reasonably be annoyed and/or disturbed by the condition created by Defendant.

164. The condition affected a substantial number of people at the same time.

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165. The seriousness of the harm outweighs the social utility of Chevron's conduct.

166. Plaintiff did not consent to Chevron's conduct.

167. As a direct and legal cause of the wrongful acts herein set forth, Plaintiff suffered damages as described above pursuant to paragraphs 132 through 137.

SIXTH CAUSE OF ACTION

(Public Nuisance - Permanent)

AS AND FOR A SIXTH CAUSE OF ACTION against CHEVRON and/or DOES 1 through 10, Plaintiff alleges as follows:

168. Plaintiff incorporates and re-alleges each of the paragraphs above as though fully set forth herein.

169. Defendant Chevron, by reason of its failure to exercise care in its operation and maintenance of the refinery, created a condition that permanently harmed the public and interfered with the public's free use and enjoyment of public land, as Plaintiff, along with numerous residents and surrounding neighbors, have suffered the loss of the use and enjoyment of its property, in the form of damage to buildings and/or a significant decrease in the value of the property, and/or exposure to an array of toxic substances on the land, and/or a lingering smell of smoke, and/or constant soot, ash, and dust in the air.

170. An ordinary person of reasonable sensibilities would reasonably be annoyed and/or disturbed by the condition created by Defendant.

171. The condition affected a substantial number of people at the same time.

172. The seriousness of the harm outweighs the social utility of Chevron's conduct.

173. Plaintiff did not consent to Chevron's conduct.

174. As a direct and legal cause of the wrongful acts herein set forth, Plaintiff suffered damages as described above pursuant to paragraphs 132 through 137.

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SEVENTH CAUSE OF ACTION

(Trespass)

AS AND FOR SEVENTH CAUSE OF ACTION against all Defendants and/or DOES 1 through 10, Plaintiff alleges as follows:

175. Plaintiff incorporates and re-alleges each of the paragraphs above as though fully set forth herein.

176. Defendant Chevron was engaged in an extrahazardous activity and/or intentionally, recklessly, and/or negligently caused fire, soot, ash, toxins, and chemical pollutants to enter Plaintiff's property.

177. Plaintiff did not give permission for this direct and/or indirect entry.

178. Plaintiff was harmed by Defendant's conduct, as Plaintiff has suffered the loss of the use and enjoyment of its property, in the form of damage to buildings and/or a significant decrease in the value of the property, and/or exposure to an array of toxic substances on the land, and/or a lingering smell of smoke, and/or constant soot, ash, and dust in the air.

179. As a direct and legal cause of the wrongful acts herein set forth, Plaintiff suffered damages as described above pursuant to paragraphs 132 through 137.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as hereinafter set forth below.

1. For compensatory and general damages according to proof;
2. For economic damages due to emergency response, fire suppression, and permitting costs according to proof;
3. For past and future damages related to environmental remediation and incidental costs according to proof;
4. For diminution in property value according to proof;

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5. For damages related to harm to public health, obstruction of the free passage and use of property of public property, and/or the interference with the comfortable enjoyment of life or property according to proof;

6. For pre- and post-judgment interest on all damages as allowed by the law;

7. For attorneys and expert/consultant fees under existing law;

8. For punitive damages in an amount according to proof or taking some measure to ensure that an example is made of Defendant to deter similar future conduct;

9. For costs of suit incurred herein; and

10. For such other and further relief as the Court may deem just and proper.

Dated: August 1, 2013

COTCHETT PITRE & McCARTHY, LLP

By: _____
FRANK M. PITRE
Attorneys for Plaintiff

VII. JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Dated: August 1, 2013

COTCHETT PITRE & McCARTHY, LLP

By: _____
FRANK M. PITRE
Attorneys for Plaintiff