December 16, 2004

Adrienne Bloch
Communities for a Better Environment
1611 Telegraph Avenue, Suite 450
Oakland, CA 94612

Subject: Comments on reopening of Title V permit for Facility A0010,
Chevron Richmond Refinery

Dear Ms. Bloch:

Thank you for your comments on the above reopening of a Title V permit, dated April 14, 2004.

The District has made some changes in response to comments. The details are in the District response, contained in Attachment A. The response refers to your comments by number. A copy of your letter that numbers the comments is enclosed in Attachment B.

The District has decided to issue the permits. All comments have been posted on the District's website. The final permit, final statement of basis, and all final responses to comments will be posted shortly. The web address is: http://www.baaqmd.gov/pmt/title_v/public_notices.asp. If you have any questions, please call Steve Hill, Manager, Permit Evaluation, at: 415-749-4673.

Again, thank you for your comments. If you have any questions about this action, please call me, at (415) 749-4673.

Very truly yours,

Brian Bateman,
Director of Engineering

Attachments
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Attachment A

The District has prepared the following responses to the comments contained in your letter.

Each comment consists of 1) a suggestion for action or change, and 2) the argument, if any, supporting the suggestion.

The comments identified by the District have been numbered. Refer to the attached copy of the original comment letter for the comment numbers.

	Response
1.	The comment criticizes the public participation processes without asserting any specific legal deficiency. The District has provided comment periods equal to or longer than what is required, and has made its best efforts to respond to PRA requests for information filed contemporaneously with public commenter review of refinery Title V permits. As noted in previous responses on this point, the District believes citizen group's inquiries have often exceeded the boundaries of topics legitimately at issue in the Title V process. For instance, public commenters have sought to re-examine the basis for applicable requirements (e.g., permit conditions) established in the distant past, when the present action is simply to incorporate those requirements into the Title V permit. Public commenters' frustrations are therefore due, in part, to their proceeding based on incorrect assumptions about the purpose of the Title V permit issuance action. The comment also criticizes a perceived disparity of what it terms "access" to the draft permits between the public and the refineries. There is typically a high level of communication between District staff and the facility during development of any District permit, and this is certainly true for a complex permit such as a refinery Title V permit. District staff are not as familiar with facility operations as the people working at a facility, and so must rely to a large extent on information provided by the facility, subject to such verification measures as the District has available to it through inspections and other means. Comments received from the public will often lead to further dialogue and exchange of information between the District and the facility. This is the only practical method the District has found for developing a permit. CBE's comment does not assert a procedural defect inherent in this process. The District may use information provided by a facility in responding to comments, but responsibility and accountability for providing an actual response to a comment always remains with the District.
1a.	The District has made appropriate revisions in response to public comment. The "enforcement and compliance agreement" between the District and Chevron covers only permit conditions that are being proposed for revision during the permit reopening. One of the conditions of the agreement is that Chevron will comply with the replacement conditions contained in the draft permit. If Chevron fails to do so, the District may enforce the current permit conditions.
2.	The throughput limit contained in the initial permit was from the original data form, submitted when the source was first permitted. At that time, the reported capacity was descriptive only, and had no regulatory significance. The new throughput limit is equal to the highest six month throughput data times two, and represents the unit's actual demonstrated sustainable capacity, per 2-1-234.
3.	The permit clearly states in I.J.2 that throughput limits on grandfathered sources are reporting requirements. Since this is clearly stated in the permit, redundancy within the Statement of Basis is not necessary.
4.	The grandfathered limits do not permit modifications that would trigger new source review. It is important to understand that the NSR rules do not limit units to historical levels of operation. A throughput that is not limited by permit condition may be increased above historical levels provided the source has not been physically modified, that there is no change in the method of operation, and upstream and downstream sources have not been debottlenecked. The converse is also true—notwithstanding the grandfathered throughput limits, the operation may not increase throughput above historical levels if a physical

	modification, change in the method of operation, or debottlenecking was necessary to allow the increase. The grandfathered permit levels act as indicators—operation above these limits notifies the District that review is appropriate, but operation below the limits does not mean that a modification has not occurred. Thus, the comment that a change to a throughput reporting threshold established for a grandfathered source the permit would "allow large increases, without re-opening the permit processes" is incorrect as a matter of law. In conjunction with issuing the initial Title V permit on December 1, 2003, the District explained the nature of the reporting thresholds being established for grandfathered sources, why this exercise is not required under any District regulation but is being done to help facilitate NSR implementation, and why setting these thresholds could not be construed as authorization to increase emissions above levels allowed by the NSR rules. Rather than repeat these explanations, the reader is referred to those explanations for further information.
5.	Per Regulation 2-1-234, Chevron submitted original design drawings that justified the corrected tank capacities.
6.	Discussion of NSR decisions is not part of the Title V process. The statement of basis documents decisions made by the District in the course of issuing the Title V permit. It does not revisit decisions made during NSR permit issuance.
7.	Tank 3103 had no change therefore no explanation was required in the SOB. As for S1514 and S3072, the SOB states the district's position that for these particular sources, throughput limits are not a reliable indicator to facilitate the implementation of NSR. As noted above, the District is not required to establish reporting thresholds for grandfathered sources, and therefore may delete them if it determines that a reliable basis is not available. Sources S3072, S3101 and S1514 have had the throughput limits removed for the above-mentioned reason.
8.	As stated in the SOB, Chevron submitted better information for S1966. The basis for this throughput limit is also mentioned in Table II-A3 as the highest six month data multiplied by 2.
9.	The purpose of the throughput thresholds imposed on grandfathered sources is to alert the District that a modification triggering NSR may have occurred. Capacities that were reported at the time the source was originally permitted had no regulatory significance, and reflected nameplate rather than actual capacity. The District has recognized that the actual sustainable capacity of many units may be much higher than the nominal capacities reported on the permit forms. Regulation 2-1-234 permits facilities to demonstrate a higher capacity by providing data showing that higher throughputs have been actually achieved and sustained.
10.	The Statement of Basis for the initial issuance included an analysis that demonstrates that VOC monitoring for compliance with Regulation 8-2 is not warranted. The margin of compliance is a factor of 20 or more for all refinery cooling towers.
11.	Appendix II is the basis submitted by Chevron dated 5/30/01 and is the fourth submittal of proposed throughput limits. The District has been enjoined from releasing this document because it contains confidential business information (CGC-02-412196). The references in this table refer to the documents containing the information upon which the District based the reporting thresholds. They do not contain any additional applicable requirements. They form part of the statement of basis, rather than the permit.
11a.	To determine that the H2S standard of Subpart J (§ 104(a)) is applicable requires meeting a burden of proof that non-emergency flaring occurs. The District does not believe this burden is met, and that applicability is indicated, merely by citing to the number of flaring incidents that are reported. Where the refinery has indicated that only emergency flaring occurs, and where the District lacks sufficient evidence to counter this representation, then the limitation in § 104(a) is not included as an applicable requirement. However, even in those instances, no permit shield is provided that would preclude the applicability of Subpart J if in fact non-emergency flaring occurred.
12.	Based on the district's current information only S6015 and S6039 were either constructed or modified after 1973. Increased throughput at a facility does not constitute a physical change or change in the method of operation of a flare at the facility. An example of a physical change to a flare

	that would constitute a modification would be alteration of flare components that increases the gas-handling capacity of the flare or that allows the flare to combust gases it previously was unable to combust. A determination that a flare has been modified will be made if information is discovered that so indicates. A finding of non-applicability of Subpart J in the Title V permit means the District lacks sufficient information to make such a finding. As is typical for federal and District standards, Subpart J obligates a facility to indicate to the District or EPA when a modification has occurred. Title V permits only address standards that are actually applicable, and it is not the practice of the District or any other permitting authority to fill the Title V permit with reporting obligations for standards the applicability of which is merely a future possibility.
13.	Replacement of burner tips is not, *per se*, a modification. Replacement of the burner tips with larger tips is one way that a flare could be modified so as to trigger NSPS. If the District has not indicated a determination that flares have been modified, then it should be assumed that the District lacks information that would support such a determination.
14.	District regulations already require such notification. See 2-1-301, 2-1-233, and 2-1-234.
15.	Table IIB in the Title V Permit lists the sources associated with each flare.
16.	The permit already contains this requirement for new and modified flares (See Table IV.A.2.1).
17.	40 CFR 60.11 is included in the refinery wide Table IV.D.1.1. Sources not subject to NSPS would not be subject to NSPS Subpart A.
18.	40 CFR §60.8 does not apply to regulation 6-301. It applies to testable applicable requirements contained in NSPS subpart J. There are no such requirements that apply to flares.
19.	The District has determined that all of the flares are exempt from Regulation 8-2-301. See page 16 of the statement of basis.
20.	See following response.
21.	The throughput limits in the new permit conditions are not converted from District permit descriptions, which include combustion device capacity expressed in BTUs. As discussed in the Statement of Basis, this new condition is an additional requirement to help ensure that the flare is operated properly, which in turn helps assure that combustion efficiency is at the exemption level described in 8-1-110.3. We have defined “proper operation” to mean operated consistently below rates deemed safe by OSHA. The mass rates in the new condition were provided to the District by the refineries, and were developed to meet an OSHA requirement to determine the safe operating limits of the flares. Exceedance of these limits would be a permit violation. However, it should be noted that these limits do not authorize operation in exceedance of any other requirement that applies at the facility. The limits are therefore do not constitute authorization to increase emissions above existing authorized levels. So, for instance, if a flaring event complied with this throughput limit on the flare, but the event was associated with an exceedance of a throughput limit applicable to a unit upstream from the flare, compliance with the flare limit would in no way excuse the non-compliance at the upstream unit.
22.	This proposal to simplify the permit and improve clarity may be considered during a future revision. In the meantime, the District believes that the current language is enforceable.
23.	The Appendix B within Condition #469 should not be changed since it follows the same calculation procedure that was used to establish the emission limits within that permit.
24.	Unfortunately, there is an existing Appendix B in Condition #469 that relates solely to that set of conditions and NSPS 40 CFR 60 also contains an Appendix B. As long as these Appendix B’s are referred to in context there should be not be any confusion.
25.	The district will add EFOB to the glossary. The cap calculation method will remain the same as it has been for 20 years. The flare monitoring regulations are unrelated to the refinery cap emission calculation procedure.
26.	This comment refers to Condition #469 which only considers flare pilot emissions. This condition was never intended to impose a limit on purge gas, which is why purge gas should not to be included in calculating compliance with the condition. A discussion of overall flaring emissions, though relevant to other contexts such as the District’s ozone precursor reduction strategy, is not relevant in the context of determining compliance with Condition #469. .

27.	The district will consider making this change in a later revision.
28.	12-11-503 is included in the monitoring tables (See Table VII.A.2.1).

Attachment B