The Bay Area Air Quality Management District ("Air District") today proposes to reissue the Authority to Construct ("ATC") for the sources that compose portions of the project formerly known as the Chevron Richmond Refinery "Renewal Project," since reduced in scope and renamed the "Modernization Project." In determining whether to reissue the ATC for the Modernization Project components ("ATC Determination"), the Air District is following a process described in the October 14, 2014 agreement for settlement of a lawsuit brought in 2014 by Communities for a Better Environment ("CBE") challenging various actions CBE alleged the Air District to have taken relating to renewal of the ATC. In that settlement agreement, the Air District agreed as follows:

1. *In making its ATC Determination, the Air District will base its decision on:*

   - *Chevron's complete application for ATC #12482;*
   - *the Air District's Engineering Evaluation;*
   - *the 2014 EIR certified by the City of Richmond;*
   - *the City of Richmond's findings and conditions made in connection with its certification of the 2014 EIR and approvals for the Modernization Project Components;*
   - *written public comments on this proposed ATC Determination; and*
   - *other evidence in the Air District's record of proceedings.*

2. *Prior to making its ATC Determination, the Air District will post its proposed determination on the Air District website and will provide an opportunity for members of the public to provide written comments on the Air District's proposed determination by providing a 21-day period for submission of written comments.*

3. *Acting as a responsible agency pursuant to CEQA, the Air District will decide whether its ATC Determination is supported by the Revised EIR and will post the final ATC Determination on the Air District website.*

A public comment period on this proposed ATC Determination is therefore appropriate, and the Air District seeks comment on today's proposed determination.

Section I of this document is a brief summary and factual background for this proposed determination. Section II provides the procedural history. Section III discusses the findings the Air District must make as a CEQA responsible agency. Section IV discusses the Air District's evaluation of Authority to Construct issues. Section V describes the Air District's proposed determination.

The proposed ATC Determination is posted on the Air District website for a 30-day comment period commencing on the day of posting. No public hearing will be held. At the end of the comment period and after considering comments received, the Air District will publish a final ATC Determination accompanied by a response to significant comments. Comments less than 25 pages (including attachments) may be submitted by email or in hardcopy. Longer comments must be submitted in hardcopy. Comments should be addressed to:

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I. Summary of Proposed Modernization Project ATC Determination

Chevron Products Company owns and operates the Chevron Richmond Refinery (the "Refinery") located in the City of Richmond. In 2005, Chevron filed an application with the City of Richmond for permits for certain improvements known as the Chevron "Energy and Hydrogen Renewal Project" or simply the "Renewal Project." In July 2008, the City of Richmond prepared and certified an EIR for the Renewal Project, and issued its land use approvals for the project.

On September 19, 2008, the Air District determined Chevron's application to be complete, issued findings and supporting facts regarding the 2008 EIR as a responsible agency, and issued the ATC for the stationary sources that composed the Renewal Project. Consistent with its normal procedure for ATC issuance, the Air District analyzed the project for, among other things, the "cumulative increase" in emissions (in other words, the sum of emissions increases and decreases for the project as a whole), satisfaction of the Air District's emission offset requirements (based on the "cumulative increase"), and applicability of the federal PSD permit requirements. As required by applicable permitting regulations, the Air District also made Best Available Control Technology ("BACT") determinations for all new or modified sources that triggered the requirement to install BACT. These BACT determinations are stated as emission limits and/or operational requirements in the ATC. Upon receipt of the ATC, Chevron commenced construction of the Renewal Project.

In July of 2009, the Conditional Use Permit issued by the City of Richmond for the Renewal Project was invalidated by a court on the basis of the sufficiency of the EIR's project description and its formulation of mitigation measures to address greenhouse gas emissions. The resulting writ of mandate

and stay halted construction activities that had been underway. In 2010, the court of appeal upheld the lower court's ruling that the EIR was deficient.

The ATC was not challenged in court in connection with the challenge to the EIR and City of Richmond's issuance of the Conditional Use Permit, and thus was not explicitly affected by the Court's ruling. The ATC was issued for a 2-year term. Chevron submitted timely requests to renew the ATC in 2010, 2012, and 2014, citing the provision of Air District regulations that requires renewal of an ATC for a project where "substantial use" has been made of the ATC. The Air District did not act on these requests for renewal, but did conduct an extensive analysis of Chevron's claim of substantial use, concluding that substantial use had been made of the ATC with regard to certain sources.

In responding to the court's order, Chevron requested that the City of Richmond study and consider approval of a scaled down version of its Renewal Project, renamed the "Modernization Project." A revised EIR was certified by the City of Richmond on July 29, 2014 ("2014 EIR") for the Modernization Project, and on that same date the City of Richmond issued its land use approvals for the project, subject to various conditions.

The question before the Air District is whether to reissue the ATC for the components of the Renewal Project that constitute the Modernization Project. Among other issues, today's proposed determination specifically addresses whether the Air District may reissue the ATC to authorize the Modernization Project based upon the 2014 EIR. This is a discrete determination addressing whether the 2014 EIR will support the Air District's action as a responsible agency. A responsible agency complies with the California Environmental Quality Act ("CEQA") by considering the EIR prepared by the lead agency and reaching its own conclusion on whether or how to approve the project involved.

Today's proposed determination uses the term "reissuance" to refer to the proposed action. Aspects of the proposed action might be better characterized as a "renewal' since terms of the ATC would carry over to the reissued permit that continues forward. At the same time, however, the ATC and the supporting Engineering Evaluation have been updated to reflect the reduced scope of the project and conditions imposed in the City of Richmond's Conditional Use Permit. While recognizing the mixed nature of the proposed action, the proposed action on the ATC will be referred to as "reissuance" for the sake of simplicity.

II. Procedural History

Issuance of ATC #12842

In 2005, Chevron filed an application with the City of Richmond for land use approvals for the Chevron "Renewal Project." On April 6, 2005, Chevron filed Application #12842 with the Air District requesting issuance of an ATC for components of the Renewal Project within the Air District's permitting jurisdiction. The Renewal Project included four main components: Hydrogen Plant Replacement; Reformer Replacement; Power Plant Replacement; and Hydrogen Purity Improvements.

The City of Richmond, acting as CEQA lead agency, prepared the EIR for the Renewal Project ("2008 EIR"). On July 17, 2008, the City certified the EIR and issued its Conditional Use Permit and Design Review Permit for the Renewal Project.

On September 4, 2008, Communities for a Better Environment, the Asian Pacific Environmental Network and the West County Toxics Coalition filed a lawsuit challenging the City of Richmond's land use approvals for the Renewal Project. The filing of that suit did not automatically stay or invalidate the City of Richmond's EIR certification. Rather, CEQA Guidelines section 15231 provides that an EIR adopted by a lead agency "shall be conclusively presumed to comply with CEQA for purposes of use by responsible agencies" who were consulted during preparation of the EIR unless one of two conditions occurs: (1) the EIR is finally adjudged in a legal proceeding not to comply with the requirements of CEQA; or (2) a subsequent EIR is made necessary by Guidelines section 15162. The Air District had been consulted during preparation of the 2008 EIR, the 2008 EIR had not yet been finally adjudged not to comply with CEQA, and none of the conditions triggering preparation of a subsequent EIR had occurred.

The Air District issued the ATC for the Renewal Project components on September 19, 2008. Prior to issuing the ATC, the Air District determined Chevron's application to be complete and issued findings regarding the 2008 EIR, as required by CEQA in connection with an approval by a responsible agency. The ATC was issued for a 2-year term, expiring September 18, 2010. Chevron commenced construction on the project soon thereafter.

On July 9, 2009, the Contra Costa County Superior Court issued a Peremptory Writ of Mandate ordering the City of Richmond to set aside its land use approvals for the Renewal Project. The Superior Court's judgment and writ were appealed, and on April 26, 2010, the judgment and writ were upheld in part and reversed in part. *Communities for a Better Environment v. City of Richmond,* 184 Cal. App. 4th 70 (2010).

Applications to Renew the ATC and Substantial Use Determination

On September 15, 2010, Chevron applied to the Air District for renewal of the ATC. Chevron's letter stated that substantial use had been made of the ATC for certain sources. In an October 6, 2010, letter to Chevron, the Air District requested factual substantiation of these claims of substantial use. Between November 17, 2010, and November 29, 2011, Chevron submitted six letters summarizing or attaching information relevant to Chevron's claims of substantial use. Air District staff also conducted multiple field visits to view equipment associated with the Renewal Project.

In a February 3, 2012, letter to Chevron, the Air District found that substantial use had been made of the ATC for a number of sources, as listed in the letter. The letter attached a "Substantial Use Analysis Summary" describing the Air District's reasoning in reaching this finding. The letter also stated that the Air District would not be renewing the ATC prior to a new EIR being certified by the City of Richmond.

On July 18, 2012, and again September 5, 2014, Chevron requested renewal of the ATC pursuant to Air District Regulation 2-1-407.3. The Air District did not act on either request.

On June 5, 2014, CBE filed an action against the Air District, *Communities for a Better Environment v. Bay Area Air Quality Management District,* San Francisco Superior Court case no. CPF-14-513704 ("Air District Lawsuit") in which CBE challenged various actions it alleged to have been taken by the Air District relating to renewal of the ATC.

City of Richmond's 2014 EIR

On May 23, 2011, Chevron submitted an application to the City of Richmond for a reduced version of the Renewal Project, called the Modernization Project. The Modernization Project retains two of the primary components of the Renewal Project: the Hydrogen Plant Replacement and the Hydrogen Purity Improvements (the latter also called the Sulfur Removal Improvements).

The City of Richmond prepared a revised EIR for the Modernization Project and the District participated in the EIR preparation process. On July 29, 2014 the City of Richmond certified the 2014 EIR, and on that same date the City of Richmond approved a Conditional Use Permit and Design Review Permit for the project, subject to various conditions.

III. CEQA

In general, determining whether reissuance of the ATC is supported by the 2014 EIR is no more legally complex than it would be if this were the initial issuance of the ATC. First, the Air District confirms the accuracy of the air impacts analysis of the EIR. Given the Air District's close participation in the development of that section of the EIR, this concurrence should follow as a matter of course. Second, the Air District conducts a review to ensure consistency between the EIR, the City of Richmond's findings and conditions made as a part of certification of the EIR, and the terms of the ATC in its reissued form. Finally, the Air District makes the formal findings required under Public Resources Code Section 15091.

The Air District has carefully considered the information in the 2014 EIR and has confirmed the accuracy of the analysis of air impacts in the EIR, and that emissions are comprehensively defined and appropriately quantified. The Air District proposes to conclude that the EIR is adequate and sufficient for the determinations the Air District must make under CEQA to reissue the ATC for the Modernization Project. Comments are solicited on this proposed determination.

Description of differences between 2008 EIR and 2014 EIR

For purposes of the Air District's determination relating to reissuance of the ATC, there are several key differences between the 2008 and 2014 EIRs. The 2014 EIR addresses the deficiency in the 2008 EIR found by the Court by (1) providing more complete information regarding the crude blends processed at the refinery during the baseline period; and (2) analyzing the potential environmental consequences of processing crude blends that are heavier than those processed during the baseline period based on various levels of assumed refinery utilization. The 2014 EIR's analysis also reflects the smaller scope of the Modernization Project as compared to the earlier Renewal Project.

In addition, mitigation measures and conditions of approval adopted by the City of Richmond set forth certain limitations on refinery operations. The City of Richmond also adopted certain mitigation measures that will require permits from the Air District.

These key differences between the 2008 EIR and 2014 EIR support reissuance of the ATC. The 2014 EIR is more detailed than the 2008 EIR, and demonstrates that the project as a whole will result in lower emissions for each category of regulated air pollutant. Further, the limitations and mitigation measures that the 2014 EIR identifies and the City of Richmond adopted to reduce criteria pollutant impacts and health risks are proposed to be incorporated in the conditions to the reissued ATC. None of the described changes weigh against reissuance of the ATC.

Summary of the findings required under CEQA

As a responsible agency under CEQA, the Air District is required to comply with CEQA by considering the EIR certified by the City of Richmond and reaching its own conclusion on whether and how to approve the Modernization Project. Accordingly, before reaching a decision on whether to reissue the ATC for the Modernization Project, the Air District must consider the environmental impacts of the project as shown in the 2014 EIR. Under CEQA Guidelines section 15096(g), a responsible agency has responsibility for adopting mitigation measures or alternatives proposed in an EIR to address the environmental effects of those parts of the project that it decides to approve. If an EIR for a proposed project finds that the project will have one or more significant environmental impacts, responsible agencies must adopt any feasible alternative or mitigation measures within their powers that would substantially lessen or avoid such significant impacts. In addition, a responsible agency must make the findings required by CEQA Guidelines section 15091 regarding whether feasible mitigation measures or alternatives have been adopted for the significant environmental impacts of the project. If any significant environmental impacts of the project will not be substantially lessened or avoided, a responsible agency may not decide to approve the project unless it determines, in accordance with CEQA Guidelines section 15093, that any remaining significant effects on the environment are acceptable due to overriding considerations.

The Air District's proposed CEQA findings are attached hereto as Exhibit A. The proposed CEQA findings include the requisite findings whether feasible mitigation measures or alternatives have been adopted for the significant environmental impacts of the project, and demonstrate that the Air District has adopted the feasible mitigation measures within its powers that are necessary to address the environmental effects of those parts of the project which the Air District proposes to approve.

Proposed determinations relating to compliance with CEQA

The Air District's proposed determinations relating to compliance with CEQA are that (1) the 2014 EIR supports re-issuance of the ATC for the Modernization Project; (2) the conditions to the reissued ATC incorporate the limitations on refinery operations that are included in the mitigation measures and conditions of approval adopted by the City of Richmond; and (3) the CEQA findings attached as Exhibit A are adopted.

IV. Authority to Construct Evaluation

A. Reissuance

As stated at the outset, the Air District is following a process described in the October 14, 2014 agreement for settlement of a lawsuit brought in 2014 challenging various actions CBE alleged to have been taken by the Air District relating to renewal of the ATC. That settlement agreement requires the Air District to determine whether to reissue the ATC based on, among other items, Chevron's complete application for ATC #12842 and the 2014 EIR.

Normally, the Air District does not reissue an ATC when the ATC has not been invalidated by a court and has not expired. The Air District has found no legal authority to support the assumption that the ATC was invalidated when the 2008 EIR was set aside. Fundamentally, a permit may be invalidated by a court decision only if that permit is made the subject of a complaint (i.e., if the permit is brought within the court's jurisdiction) and the court affirmatively determines that the permit is invalid. Plaintiffs in the case challenging the City of Richmond's 2008 EIR and land use approvals chose not to challenge the ATC. The practical result was that, when the City's permit was invalidated, the ATC was of no use since Chevron could not proceed without the City's land use approvals, and the Court had stayed actions to implement the City's approvals. However, it does not appear that the ATC ceased to be a valid permit.

Likewise, the Air District has found no authority to support the assumption that the ATC expired when the first 2-year term of the ATC ended in September 2010. Pursuant to Air District regulation 2-1-407, a permit continues in effect if a timely and complete request for renewal is filed. Since Chevron filed timely and complete requests for renewal and the Air District has not acted on Chevron's requests for renewal, the ATC has continued in effect by operation of law.

Nevertheless, the Air District recognizes that there is uncertainty regarding the effect of the Court's final decision finding the 2008 EIR to be deficient and ordering the City of Richmond to rescind its land use approvals for the Renewal Project. For this reason, the Air District has agreed to reconsider issuance of the permit by taking into account the 2014 EIR. The Air District understands it is making a discretionary determination in connection with reissuance of the permit.

The Air District has reviewed Chevron's complete application for ATC #12842, the 2008 Engineering Evaluation, and the 2014 EIR. The reduced scope of the Modernization Project as compared to the originally-proposed Renewal Project (as described above, the Modernization Project consists of a subset of the elements proposed for the Renewal Project) means that portions of the 2008 Engineering

Evaluation relevant to components removed from the project are no longer relevant. For the project components that remain, the analysis in the 2008 Engineering Evaluation generally remains valid. The components that were removed included certain sources that were projected to be shut down. The absence of these "shut downs" from the final project entails a different balance of emissions increases to decreases. The Engineering Evaluation Addendum for the Modernization Project, which is being made available in draft form in conjunction with the ATC Determination, analyzes this revised balance and concludes that there will be no increases in relevant pollutants as a result of the project.

As described further below, in connection with reissuance of the ATC, the Air District is proposing to determine that all applicable permit requirements (including Best Available Control Technology ("BACT")) are met, that emission offset requirements will be satisfied, that a PSD permit is not required, and proposes to reissue the ATC for the Modernization Project. The Air District is soliciting comments on this proposed determination.

B. Renewal

The Air District has also evaluated whether a similar outcome would be reached upon application of its regulations addressing renewal of an ATC. Air District Regulation 2-1-407.3 specifies that "[i]f substantial use of [an] authority to construct has begun, either during the initial term or during a renewal term, the authority to construct shall, upon request by the applicant, be renewed for additional two-year terms until the permit to operate is issued, or, if a term of less than two years is requested, for such term as is requested." This provision codifies the idea, well-established in California case law, that where the holder of permit such as an ATC has made a significant investment in reliance on that permit, for instance by purchasing equipment or commencing actual construction, they are entitled to a renewal of the permit.

As described above, Chevron began construction on elements of the Renewal Project in 2008 following issuance of the ATC by the Air District and the original land use approvals by the City of Richmond. On September 15, 2010, Chevron submitted to the Air District a letter requesting renewal of the ATC on the basis of substantial use, pursuant to Regulation 2-1-407.3. The Air District requested substantiating information from Chevron, and after reviewing the submitted information and making multiple site visits, in a letter to Chevron dated February 3, 2012, the Air District found that substantial use had been made of the ATC for a number of sources as listed in the letter. The letter attached a "Substantial Use Analysis Summary" describing the Air District's reasoning in reaching this finding, and also stated that the Air District would not be renewing the ATC prior to a new EIR being certified by the City of Richmond. On July 18, 2012, and September 5, 2014, Chevron again requested renewal of the ATC pursuant to Regulation 2-1-407.3. The Air District did not act on either request. Note that the

"substantial use" determination is prerequisite to a renewal under 2-1-407.3, but is not itself a renewal action. The Air District made the determination of "substantial use" in advance of any action on renewal because the information was available and the status of that information would not change since Chevron would not be conducting more work on the project.

The Air District is making available on its website the February 3, 2012 letter describing its "substantial use" determination and the public documents that are the basis for that determination, along with an index of those documents.

The ATC was issued for a two-year term beginning on September 19, 2008. Although Chevron requested renewal of the ATC in 2010, 2012, and 2014, paying the requisite renewal fee on each occasion, the Air District has not acted on any of these requests. As noted above, Air District Regulation 2-1-407 specifies that "If the APCO does not act on such a [renewal] request prior to expiration of the authority to construct, the authority shall remain in effect until the APCO has acted to approve or deny the renewal request." Because Chevron submitted complete and timely applications for renewal, including providing information as requested to allow review of Chevron's request for a substantial use determination and payment of applicable renewal fees, the Air District believes the requirements have been met for the ATC to have "continued in effect" since issuance as provided in Regulation 2-1-407.

It might be argued that, although the ATC remains valid, the Modernization Project is a different project than the project that was the subject of the ATC, and therefore the ATC could not be renewed. The Air District believes that under different facts this analysis might be correct. However, the Modernization Project is merely a subset of components that were included in the Renewal Project ATC. Consistent with the Air District's usual practice where elements of a project are dropped by the applicant after an ATC is issued, the renewed ATC could be revised to authorize the Modernization Project rather than all elements of the Renewal Project.

In sum, application of the Air District's regulations pertaining to renewal of the ATC lead to the same result as the Air District proposes to take in connection with reissuance of the ATC. The ATC could be revised to authorize the reduced scope of the Modernization Project components and the applicable conditions required by the City of Richmond.

C. Other Issues.

1. Best Available Control Technology

The Air District considered whether BACT should be re-evaluated for the components of the Modernization Project that have carried over from the Renewal Project, because even though these components have not changed since the ATC was issued, what constitutes "best" technology can change over time. The Air District believes that the BACT determinations made in connection with reissuance of the ATC should be based on the conditions and regulations existing in 2008, at the time Chevron's application for ATC #12842 was complete.

Regulation 2-1-409 applies to consideration of an application for an ATC. Under that regulation, the application is reviewed pursuant to, and the Air District's decision shall be based on, "federal, state and District BACT, offset, TBACT, and project risk regulations or standards in force on the date the application is declared by the APCO to be complete." Although the APCO never issued a letter or determination stating that the application was complete, as a practical matter the application was determined to be complete no later than the date the ATC was issued, on September 19, 2008. Under Regulation 2-1-409, and consistent with the process set out in the 2014 BAAQMD-CBE settlement agreement, the evaluation of BACT in the 2008 Engineering Evaluation remains valid and need not be assessed anew.

The same result would be reached if the Air District were acting on Chevron's applications to renew the ATC. Since the Air District made a finding of "substantial use" pursuant to Regulation 2-1-407.3, the original BACT determinations would carry forward. This is of course consistent with the rationale underlying the "substantial use" doctrine, given that Chevron's capital investments and construction activities were conducted in reliance on the 2008 BACT determinations. The District has not determined whether BACT for any project components has changed. However if, hypothetically, BACT has changed, requiring the project to meet different BACT requirements after construction had been substantially commenced could pose practical difficulties. For instance, newer control strategies may not align with the project as designed and (partially) built.

Finally, the Air District also reviewed the 2014 EIR to consider whether it might be used to inform the decision of whether BACT should be re-evaluated. This factual review considers the revised information in the 2014 EIR to assess whether the corrected CEQA analysis, had it been available at the time, would have affected the BACT determinations that the District made in 2008.

If this review indicated that the 2008 BACT determinations would have been affected by the corrected CEQA analysis, a difficult question might arise. The Air District potentially would have to decide whether to require changes from the prior BACT determinations notwithstanding Air District regulations 2-1-409 (requiring BACT determinations be based on regulations applicable at the time of application

completeness) and 2-1-407.3 (granting continued permit validity where substantial use has occurred). However, that question is not presented here because, as explained below, the differences between the 2008 and 2014 EIRs do not point towards a need to reevaluate BACT.

The 2014 EIR uses an analytic tool called the "Unit Rate Model" to estimate how various possible changes in crude slate might affect unit operations at the Refinery and resulting emissions. While these estimates are relevant to CEQA, they do not directly affect Air District evaluation of BACT. In general, Air District permits are based on the highest potential to emit that an individual operation or source is physically capable of or, alternatively, a lower level of emissions if codified in an enforceable permit condition. In other words, Air District permitting assumes the highest emissions physically or legally possible on a source-by-source basis, regardless of whether those emissions will be achieved in practice. The Unit Rate Model, by contrast, is concerned with predicting actual emissions from the refinery as a whole. While this was deemed to be important from the standpoint of completing the CEQA analysis for the project, it is of no consequence for Air District determination of BACT. Estimates of emissions consequences from various crude slates would not have changed the Air District's calculation of the highest emissions physically or legally achievable by equipment authorized by the ATC. It follows that the central thrust of the analysis in the EIR that is responsive to the Writ, and that constitutes the primary differences between the 2008 and 2014 EIRs, has no bearing on the Air District's BACT analysis.

As noted previously, the other key differences between the 2014 and 2008 EIRs derive from the reduced scope of the project and the imposition of certain operational restrictions set forth in conditions imposed by the City of Richmond's Conditional Use Permit. Neither of these differences has a bearing on the Air District's 2008 BACT determinations. The Engineering Evaluation Addendum describes and compares emissions estimates for the Renewal Project and the Modernization Project. The Addendum demonstrates that the net effect of these changes across the project as a whole is lower emissions for each category of regulated air pollutant. Nothing in these changes calls into question the 2008 BACT determinations.

2. PSD Permitting

In the 2008 Engineering Evaluation, the Air District evaluated whether the Renewal Project would require a federal Prevention of Significant Deterioration ("PSD") permit as a "major modification."[1] The conclusion was that a PSD permit was not needed because contemporaneous emission reductions from

[1] Although PSD permitting is a federal Clean Air Act program, the Air District conducts PSD permitting and applicability determinations pursuant to a PSD delegation agreement with EPA Region 9. The most recent PSD delegation agreement is dated _____.

the project, subtracted from project-related emission increases, caused the project's net emissions increase to be less than the PSD thresholds for significant emissions increases, so that PSD did not apply.

Due to the reduced scope of the Modernization Project and the resulting changes in project-wide emissions, Air District staff has confirmed that a PSD permit remains unnecessary.

V. Proposed ATC Determination

For the reasons described above, and as specified in the 2008 Engineering Evaluation and the update to the Engineering Evaluation, the Air District is proposing to make the following determinations (collectively, the "ATC Determination"):

1. The 2014 EIR supports reissuance of the ATC for the Modernization Project. The Air District participated closely in development of the air impacts portions of the 2014 EIR, and is on record as agreeing with the estimates of air emissions impacts included in the 2014 EIR. The Air District's proposed CEQA findings as a responsible agency are included as part of this proposed determination.

2. All applicable permit requirements (including BACT) are met, emission offset requirements will be satisfied, and a PSD permit is not required. Accordingly, the Air District proposes to reissue the ATC for the Modernization Project based on the 2008 complete application and the standards in effect at that time, as required by Regulation 2-1-409.

The 2008 Engineering Evaluation, the Air District staff's technical work confirming the conclusions of the 2008 Engineering Evaluation in light of the reduced project scope, the proposed reissued/renewed ATC, and the proposed reissued/renewed ATC conditions are all available on the Air District website, and are incorporated by reference into this proposed ATC Determination.

The Air District is proceeding under the assumption that the 2014 EIR will be found to have satisfied the Contra Costa Superior Court's Writ of Mandate. This will not be determined until January 2015 at the soonest, when the Court considers the City of Richmond's Return on the Writ. The Air District will presume the adequacy of the new EIR in the meantime, consistent with Public Resources Code section 21167.3(b). Chevron's representatives have indicated that it does not intend to proceed with the Modernization Project prior to the Court's ruling on the Return.