

## **The Role of Litigation in Pursuing Environmental Justice in Richmond, CA**

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### **ABSTRACT**

Environmental justice litigation is an important strategy to address disproportionate exposures to environmental harms. This paper investigates how, why, and to what effect environmental justice litigation has been employed in Richmond, California. The Chevron Richmond Refinery, California's largest source of greenhouse gas emissions, is located in Richmond. The city also has a high proportion of low-income people of color, as well as a childhood asthma rate that is more than twice the national average. Numerous environmental justice suits have been filed against the refinery, both to assure compliance with and enforcement of environmental laws and for civil rights claims. I conducted interviews and analyzed case briefs and articles from local news outlets. I found that litigation did not play as large a role in attaining environmental justice as I had expected. Richmond's environmental justice issues have primarily elicited community mobilization and activism, while only a few instances have led to litigation by non-profits and the City of Richmond, which have sought to hold Chevron accountable for environmental and public health harms. However, litigation has aided other environmental justice strategies by allowing non-profits time to mobilize members of the community, as well as allowing the City to obtain compensation for environmental harms caused by the refinery. Thus, environmental justice litigation has served as one of many strategies in a broad and ongoing environmental advocacy campaign within Richmond.

### **KEYWORDS**

Environmental law, Richmond, CA, Chevron, community, public health

## INTRODUCTION

The environmental justice movement emerged in the last decades of the 20<sup>th</sup> century, in response to the realization that many low-income communities faced disproportionate exposure to environmental harms. Environmental justice advocates stress the importance of the health and well-being of peoples in diverse communities, and challenge inequitable exposure to environmental risks (Monsma 2006). Activists from affected communities have employed many strategies to ensure rights to protection from environmental degradation and disproportionate environmental risk burdens (Pirk 2002). These strategies included community organizing, community-based participatory research, and legal action. Since the inception of the environmental justice movement, activists and community members have employed litigation as a means of achieving legal victories within affected communities. One particular case, *Bean v. Southwestern Waste Management, Inc.* (1979), set a precedent for future environment justice cases to come (Bullard 2007). The suit was the first in the country to challenge the siting of an unwanted waste facility on civil rights grounds. The plaintiff held that the City of Houston and a waste agency, Browning Ferris Industries, had discriminated against the mostly African American residents of a Houston community by placing a garbage dump in that neighborhood. Since this case, litigation has been used extensively in pursuing environmental justice.

The many environmental justice suits following *Bean v. Southwestern Waste Management, Inc.* involved key legal strategies still employed in recent environmental justice cases, including using environmental laws to block facilities from causing environmental harms (Cole 1993). Many state and federal environmental laws set out a series of procedural hurdles that applicants must clear to receive a building permit. In California, when an entity proposes the construction of a potentially environmentally harmful facility, it must publish an Environmental Impact Report that communicates specified environmental risks associated with the project to the public (UC CEQA Handbook 2001). Further, under the California Environmental Quality Act of 1970, entities must follow a protocol of analysis and public disclosure when determining the environmental impacts of a proposed project. Many activists have brought suit against entities for failing to disclose all of the potential environmental impacts of a project in these reports. For example, in both *Citizens to Preserve the Ojai v. County of Ventura* (1985) (*Citizens to Preserve the Ojai* 1985) and *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) (*Vineyard Area*

*Citizens for Responsible Growth* 2007), members of affected communities cited deficient Environmental Impact Reports as grounds for litigation. Environmental justice attorneys have also cited violations of civil rights claims in filing suit. Adding civil rights claims as part of an environmental lawsuit allows claimants to more fully represent the environmental harms occurring in a community (Cole 1993). In such cases, environmental justice attorneys have traditionally cited Title VI in the Constitution, which prohibits discrimination on the grounds of race, color, or national origin by any program receiving federal financial assistance (Colopy 1994). For instance, in *Bean v. Southwestern Waste Management, Inc.* (1979), environmental justice attorneys representing community members called upon this statute when detailing disproportionate environmental burden on African American residents of in Houston.

Although environmental justice suits are an important means of addressing violations of environmental law and discriminatory actions, community groups must seriously consider the potential costs and risks of litigation as a viable environmental justice strategy before embarking on a litigious path. Environmental justice struggles are at heart political and economic (Cole 1993). Thus, oftentimes, legal responses to environmental justice strategies are inappropriate or unavailable. Bringing a lawsuit may result in defeat in the struggle at hand, or cause significant community disempowerment. Given these potential risks, communities often view litigation as one of many potential tools in environmental advocacy campaigns (Morton 2015). Indeed, other strategies of attaining environmental justice may be more effective than litigation. For instance, in the predominately African American city of Chester, Pennsylvania, industry considers public opposition, particularly direct protest, to be the greatest obstacle to carrying out operations (Foster 1998). Like Chester, Richmond, California has high percentage of low income residents of color, who have experienced disproportionate exposure to harmful air pollution.

Community organizations in the city have filed suit against Chevron in two major cases. When Chevron proposed a modernization project that would have enabled processing of low-quality crude oil at the refinery in 2008, a local environmental justice group, Communities for a Better Environment (CBE), challenged the project, arguing that the oil corporation disclosed a deficient Environmental Impact Report. And, in 2014, when Chevron proposed another project, CBE again challenged a new Environmental Impact Report. The City of Richmond also filed suit against Chevron following damages incurred by a 2012 refinery fire. However, it is unclear how litigation has been perceived by the community and to what effect these cases have contributed to

the pursuit of environmental justice in the city. Thus, I ask: What is the role of litigation in environmental justice activism in Richmond, CA? Specifically: 1) How is environmental justice litigation perceived by stakeholders in Richmond, CA; 2) How is litigation related to a broader array of environmental justice strategies in the city; 3) And, how has environmental justice litigation played out in specific cases in the city?

### **A history of environmental activism in Richmond**

To better understand how community litigation has affected corporate reporting, it is necessary to examine the existing relationship between the City of Richmond and the Chevron Richmond Refinery. In 1901, Standard Oil corporation bought 500 acres in the area and built the refinery, which opened in 1902 and was the world's second largest oil refinery by 1904 (Wenkert et al. 1967). At this time, other corporations such as the California Wine association and the Pullman Railroad Company established facilities in the area (Wenkert et al. 1967). Thus, at the time of its incorporation, in 1905, the City of Richmond became a haven for industrialists who sought minimal governmental regulation at the city level. The refinery greatly affected city politics, and Standard Oil employees and business-friendly politicians were frequently able to gain power in city government. In fact, one Standard Oil employee, W.W. Scott, was elected mayor of Richmond four times (Wenkert et al. 1967).

World War II caused a major shift in Richmond's sociopolitical composition through a major influx of workers to the city, many of whom were African Americans, as Richmond's black population grew by fifty times during the war period (Davis 2013). After the war, a vast majority of blacks lived in badly maintained temporary war housing and were subjected to the environmental harms of the refinery (Wenkert et al. 1967). Resistance to environmental injustice thus grew out of these inequitable spaces and implications of environmental racism.

In the 1980s, after decades of unregulated and unchallenged industrial operations, community organizations started to demand just living and working conditions. At this time, almost one-fifth of California's Superfund sites, locations which the EPA has declared contaminated with hazardous materials, were in Richmond (Davis 2013), largely due to the operations of the refinery. In addition to chronic pollution, the refinery experienced an alarming 304 industrial accidents, often resulting in toxic releases, between 1989 and 1995 (Davis 2013).

By the early 1990s, 79% of those living near the Chevron plant were low-income people of color (Davis 2013). Local activists strongly advocated for community mobilization against industrial pollution (Walker 2009). Community organizations like Communities for a Better Environment and the West County Toxics Coalition emerged in Richmond amidst a growing awareness of the inequitable distribution of environmental harm. In 1997, these two community organizations pushed Chevron to withdraw its request for a permit which would have expanded a large incinerator at the facility.

In the past decades, these community organizations have emphasized informing the Richmond community of the environmental harm brought about by the refinery. When Chevron proposed an energy and hydrogen renewal project in 2008, Communities for a Better Environment challenged the EIR and thus halted the construction of the project (*Communities for a Better Environment v. City of Richmond* 2010). When Chevron again proposed another project that would have modernized some its facilities, CBE challenged the project's EIR, this time arguing that the Bay Area Air Quality Management District (BAAQMD), an air-quality regulatory board established by CEQA, had approved the project before examining the EIR. A trial court ruled in CBE's favor, thus halting the construction of the project for the time being (Communities for a Better Environment 2014). While these most recent battles between the refinery and community illustrate an ongoing, embittered coexistence, these community organizations have done much to achieve environmental justice in the Richmond community.

## **Environmental Impact Reports**

With environmental awareness growing in the 1960s, Congress passed the National Environmental Policy Act (NEPA) in 1969. As a groundbreaking piece of environmental legislation, this act requires all executive federal agencies to prepare Environmental Impact Statements (EISs) detailing the possible environmental impacts of proposed projects before undertaking any major federal action. Following the enactment of this federal legislation, California passed a similar piece of legislation in 1970, called the California Environmental Quality Act (CEQA), requiring that agencies publish an Environmental Impact Report (EIR) when proposing a project that would potentially cause environmental damage or adversely affect human health. While both NEPA and CEQA call for an analysis of the impacts of a proposed project in

their respective legally mandated impact documents, only CEQA requires entities to impose mitigation measures for an environmental impact (UC CEQA Handbook 2001).

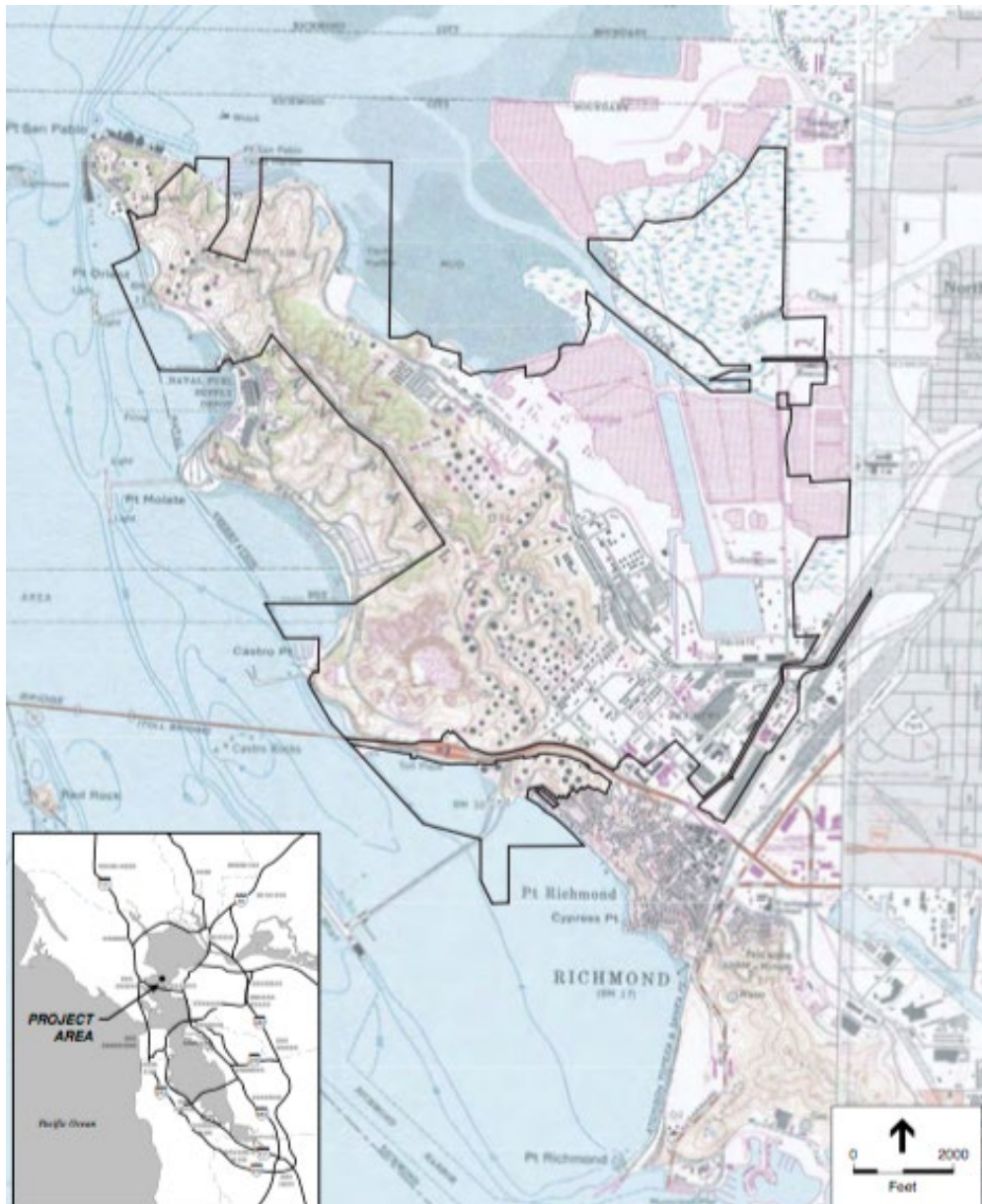
EIRs contain two major features: an analysis of the impacts of a proposed project and an analysis of mitigation measures. The reports cover the impacts and mitigation measures of items such as agricultural resources, air quality, biological resources, cultural resources, energy, geology, hydrology, land use, noise, employment, public safety, and transportation (UC CEQA Handbook). CEQA also requires entities to analyze the amount of greenhouse gases a proposed project will emit (UC CEQA Handbook 2001). If a project's greenhouse gas emissions have a significant impact on the environment, then the entity must also propose mitigation measures to mitigate the impacts.

Since the enactment of both NEPA and CEQA, there has been much EIA and EIR litigation in the United States (Wathern 2010). Almost 40 percent of these suits are filed by environmental groups like Communities for a Better Environment and West County Toxics Coalition (Wathern 2010). Often, these environmental groups file civil suits in attempts to clarify definitional issues and address inadequate disclosure in the EIRs. Particularly, these community groups have sought greater disclosure of the environmental impacts and mitigation measures of proposed projects.

### **Chevron Richmond Refinery**

Centered in northwestern Richmond, the Chevron Richmond Refinery processes crude oil blends, externally sourced gas oils, and natural gases that are made into products like motor gasoline, jet fuel, diesel fuel, and lubricant base oils. Six neighborhoods surround the facility, including Village, Santa Fe, and Iron Triangle to the southeast, Shields-Reid and Parchester Village to the northeast, and Point Richmond to the southwest. The Point San Pablo Peninsula and San Francisco Bay form the western border of the facility, and San Pablo Bay forms the northern boundary of the facility property (Figure 1). The refinery is located in western Contra Costa County, which is within the nine-county San Francisco Bay Area Basin, and falls under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). BAAQMD has the regulatory lead in assuring attainment of federal and state regional air quality goals, and ensuring that EIRs are in accordance with CEQA. The refinery is California's top emitter of greenhouse gases (California Air Resources Board 2015), which are primarily released by stationary sources, such as furnaces

and process units used to heat, chemically modify, and separate crude oil and purchased gas oils. Emissions are also generated from combustion sources involved in the transportation of feedstocks brought into the facility. Transportation-related combustion air emissions sources include vessels associated with marine shipping, locomotives associated with rail transport, and trucks associated with roadway conveyance.



**Figure 1.** Chevron Richmond Refinery Location.

## METHODS

### Interviews

I conducted interviews with environmental justice stakeholders, peoples with a vested interest in pursuing environmental justice, in Richmond, CA. I designed my interviews to be semi-structured in order to allow for the opportunity to identify new ways of seeing and understanding in my research. Using a semi-structured interview process, I developed an interview guide with the following guiding questions:

Question 1	What do you do?
Question 2	What does environmental justice look like in Richmond?
Question 3	What role does litigation play in pursuing environmental justice in Richmond?
Question 4	How effective is litigation in attaining goals of environmental justice?
Question 5	How do you see litigation in regards to your own environmental justice work?
Question 6	Do you know of any specific cases? - What were the parties? - How were they involved? - Were the outcomes of litigation effective?
Question 7	What does the future of environmental justice litigation look like in Richmond?

### Textual Sources

In addition to conducting interviews, I accessed case briefs from specific cases mentioned in interviews. From these briefs, I recorded the parties involved, what stake they had in the particular suit, and the court mandated outcomes of the suit. I also researched news articles I could find by searching the specific case I was interested in. I collected excerpts from articles that directly pertained to my study.

### Data Analysis

In analyzing interviews, I grouped responses into similar general perceptions of environmental justice litigation. For example, based upon my data, I divided all interview responses into two



categories: those that perceived environmental justice litigation as supplemented to other environmental justice strategies and those that perceived environmental justice litigation as paramount to attaining environmental justice in Richmond. In analyzing case briefs, I compared the information I recorded from the case briefs with responses to interview question 7.

## **RESULTS AND DISCUSSION**

While litigation has been employed on three occasions in Richmond, CA to pursue environmental justice, it did not play as large a role in attaining environmental justice as I had expected. Though environmental justice litigation can be useful in raising the profile of a community's struggle and educating the public and government officials about environmental racism, it is not the primary strategy for obtaining environmental justice in Richmond (Cole 1993). The majority of environmental justice issues have elicited community mobilization and activism, while only particular instances, such as violations of state environmental laws, have led to litigation. And different institutions that have employed litigation as an environmental justice strategy have done so for different reasons. The City of Richmond has mainly considered damages incurred to the City, while environmental organizations have attempted to address future encroachments on environmental justice. Thus, with a confluence of various issues and motives, environmental justice litigation has served as one of many strategies to a much broader environmental advocacy campaign within the city.

### **Stakeholder Perceptions of Environmental Justice Litigation**

Environmental justice litigation is often viewed by stakeholders in Richmond as a last resort in pursuing environmental justice. Community organizers contend that, litigation, though playing a necessary part in achieving environmental justice in Richmond, often separates community members from environmental justice issues at hand. One respondent, Dr. Henry Clark, founder of the West County Toxics Coalition, noted that litigation sometimes prevents the public from getting involved in local environmental justice issues. As he described, "The people who are affected need to get involved with what is going on. People can't sit back and wait for legal support to do it for them" (Clark 2017). Another community organizer, Jose Lopez, of Communities for a

Better Environment, noted that “the technicalities of litigation leave people out of the environmental justice process” (Lopez 2017). Communities for a Better Environment staff attorney Roger Lin also noted that “most environmental justice litigation is not done right. Oftentimes lawyers take everything out of community hands” (Lin 2017). As noted in past studies, lack of legal literacy and unfamiliarity with technical legal vocabulary alienates potential users of the law and makes plaintiffs highly dependent upon their legal representative to present their concerns in court (Newell 2001).” In Chester, Pennsylvania, a city of similar racial and socioeconomic composition as Richmond, community members found that the legal process designed to help them ultimately denied them any opportunity to participate in legal proceedings (Foster 1998). Litigation can act to remove community members from the environmental justice process.

Stakeholders in Richmond also considered litigation in light of its other limitations. Both Jose Lopez and former Mayor of Richmond, Gayle McLaughlin, noted that litigation is a costly process. McLaughlin described how “the City of Richmond sued Chevron in 2015 and the lawsuit is still ongoing. Even before we filed the lawsuit, a majority of the council members had to agree to sue Chevron” (McLaughlin 2017). As McLaughlin explained, “Because the move to sue Chevron required a majority vote among the councilmembers, it is often difficult to go the legal route through politics. We first had to agree to hire a firm that would take our case.” The decision to hire a law firm to represent the City of Richmond against Chevron was expressed in local newspaper *The Richmond Confidential*:

*Council voted 5-2 to hire Cotchett, Pitre & McCarthy, an antitrust, securities fraud and personal injury law firm based in Burlingame, to prepare to litigate if no agreement is reached by June 18. The measure was approved Tuesday night after lengthy debate, with councilmember Nat Bates and Vice Mayor Corky Booze pushing back against efforts to sue Chevron, while councilmember Jael Myrick urged caution. (Kanhema 2013).*

In using phrases like “lengthy debate” and “pushing back against efforts to sue Chevron,” the article connotes the difficulty in employing environmental justice litigation at a local government level. The article also noted:

*“I want us to make sure that the decision we make is smart, strategically,” Myrick said. “I’d suggest that we keep our arrow in the quiver, [rather] than just shoot.”*

*But McLaughlin said legal action will be the most effective way to ensure that Chevron takes full responsibility for the damage caused by the Aug. 6, 2012, fire, which destroyed part of its refinery and brought at least 23,700 health- and property-related claims from individual residents.*

*Chevron is currently involved in discussions with the city, but legislators have expressed dissatisfaction with the pace and progress of the negotiations. "Litigation is the strongest enticement for Chevron to come to the table, as they have done in their appeal against property taxes," McLaughlin said. "It is appropriate that we also protect ourselves by having legal representation and taking legal action." (Kanhema 2013).*

Myrick's comment supports other perceptions of environmental justice litigation as a last resort option. The quote also highlights the political struggle in employing environmental justice litigation through city government. Myrick's comment directly opposes the article's summation of McLaughlin's opinion on legal action against Chevron. Thus, the cost, time, and political consensus required to achieve legal victories often deter stakeholders from considering litigation.

Additionally, litigation can affect relationships that community organizations like Communities for a Better Environment have with corporations like Chevron. Lopez notes "lawsuits often have the potential to spoil relationships. That is why we try to avoid emphasis on legal action" (Lopez 2017). Communities engaging in litigation must consider the scope at which environmentally destructive industries support local communities in the form of community benefit programs (Newell 2001). With regards to this relationship between community and industry in Richmond, litigation is used sparingly though stakeholders do acknowledge its importance. Clark insisted that "litigation is very important, corporations have lots of money and high-powered attorneys. That is why we must sometimes go the legal route" (Clark 2017). Lopez noted that "sometimes the legal aspect is the only option." On the same vein, Roger Lin noted that "we often have to use litigation when everything goes wrong and community activism doesn't work" (Lin 2017). In the article, McLaughlin noted "Litigation is the strongest enticement for Chevron to come to the table, as they have done in their appeal against property taxes. It is appropriate that we also protect ourselves by having legal representation and taking legal action" (Kanhema 2013). Though litigation may result in a highly adversarial relationship between the community and Chevron, stakeholders recognize it as an effective option when challenging the oil corporation.

Different environmental justice struggles within the city call for different approaches. When Chevron proposes an expansion project, stakeholders may use litigation to halt the process

in order to find other ways of involving the community. As Lopez described, litigation is often employed “to stall the process until other creative ways can be found to stop the project” (Lopez 2017). Roger Lin noted that “my role as an environmental lawyer is to give the community options and ultimately let them decide on the legal process” (Lin 2017). Litigation may also serve the purpose of attaining monetary compensation caused by environmental damage, such as in the case of the 2012 Richmond refinery fire. McLaughlin noted that “the fire caused a lot of disruption in city. Fifteen thousand people went to hospital. The fire caused businesses to think twice about moving to Richmond and property taxes went down in the city. We thus felt we had reason to sue Chevron” (McLaughlin 2017). Thus, environmental justice litigation has been employed to two effects: stalling and attaining compensation. Though differing in their approaches and employment of litigation, both CBE and the City of Richmond maintain that their motivation for filing suit was holding Chevron accountable to the public. In addressing the intent for filing suit, councilmember McLaughlin affirmed that Chevron must be held responsible. The San Francisco Chronicle noted McLaughlin, “This is not about the money, although there are certainly costs attached to the impact of this fire. ... This is about a change in Chevron’s corporate culture, to place safety of the community as a top priority” (Lee 2013). Roger Lin also described that “Chevron must stand accountable to the public. Litigation exposes Chevron.” Thus, while litigation has been used to stall projects and attain compensation from the refinery fire, stakeholders ultimately affirm its role as a tactic for ensuring responsibility.

### **Litigation in Relation to Other Environmental Justice Strategies**

Stakeholders perceive litigation as secondary to community organizing as a means of pursuing environmental justice. Community organizations like Communities for a Better Environment and the West County Toxics Coalition mostly employ community organizing. Henry Clark describes the West County Toxics Coalition as a “community based grassroots organization focused on community organizing and establishing direct relationship with companies” (Clark 2017). Jose Lopez noted that “Communities for a Better Environment prioritizes community organizing first” (Lopez 2017). Additionally, industry often considers public opposition, particularly direct protest, to be the greatest obstacle to carrying out operations within a community

(Foster 1998). Thus, stakeholders only employ litigation when community organizing fails to address issues with industry, namely Chevron.

The rise and success of environmental justice lawsuits has paralleled the changing political climate of the city. All three of the cases I studied came after 2004, when Green Party and Richmond Progressive Alliance member Gayle McLaughlin was elected as Mayor of Richmond. Since 2004, the City of Richmond has sued Chevron, in addition to CBE securing legal victories in 2010 and 2014. At the time she became mayor, the majority of city council members received campaign funding from Chevron. In 2017, five of the seven council members are members of the Progressive Alliance, which works to put political decision-making power in the hands of the people by electing corporate-free representatives. As she noted “there has been a push and pull relationship with Chevron and some council members” (McLaughlin 2017). However, mirroring the increasingly progressive nature of the city’s government, stakeholders in the community secured a big legal victory in 2008, when a trial court ruled against Chevron’s proposed plan to build a modernization facility that would have enabled the processing of low-grade crude at the site. Later, a progressive city council was able to reach a consensus to sue Chevron in 2015 following the 2012 fire, highlighting how the political composition of city government affects the litigation process within the city. Because of a progressive council, this suit marked the first time that the City of Richmond was able to sue Chevron. Given this, it seems likely that there will be more suits filed on the City’s behalf if the council follows an increasingly progressive trend.

Despite these victories, Chevron still possesses too much political power for the City to be assured of more legal victories. As McLaughlin noted, “Chevron has fought us on every step of the way to achieve environmental justice. The suit we filed in 2015 is still ongoing” (McLaughlin 2017). Thus, litigation at the local level may prove ineffective when compared to legal approaches at state and federal levels. As McLaughlin noted, “Greenhouse gases are a major concern for the city. Chevron is the greatest emitter of greenhouse gases in the state. Because these gases are regulated at the state level, the city can do nothing about them.” However, litigation at the local level may communicate the need for policy change to state legislators. Plaintiffs can use decisions to show legislators that change is needed (Morton 2015). Roger Lin echoed this point when he noted that “sometimes lawsuits can be used to force policy change. Though we may lose a case, it could have the potential to communicate that a change is needed in regulation to lawmakers” (Lin

2017). Thus, litigation, though sometimes yielding unfavorable decisions, can address regulatory gaps that prevent plaintiffs from relief at state and federal levels.

### **Examples of Environmental Justice Litigation**

In my examination of environmental justice litigation in Richmond, I identified three major cases: *Communities for a Better Environment v. City of Richmond* (2010), *CBE v. Bay Area Air Quality Management District* (2014), and *City of Richmond v. Chevron* (2015).

In 2010, CBE filed suit against the City of Richmond and Chevron following the oil corporation's application submission to the city for the necessary building permits to proceed with construction of the Chevron Energy and Hydrogen Renewal Project. The city issued Chevron the permits to proceed with construction of the project after finding the Environmental Impact Report (EIR) had been in compliance with the California Environmental Quality Act (CEQA). CBE argued that environmental review of the project was flawed because the EIR failed to disclose, analyze, and mitigate the potential environmental impacts of the project. In making this argument, CBE cited procedural violation in environmental law to make its case. The court ultimately ruled with CBE and decided that the EIR was inadequate because it had failed to disclose all the potential environmental impacts caused by the project. The court brief noted the community outpouring associated with the case in mentioning that "after issuance of the final EIR in January 2008, there was an "outpouring of public comment arguing that the EIR had failed to provide a convincing and complete explanation as to why the increase of greenhouse gas emission caused by the project would not have a significant impact on the environment" (*Communities for a Better Environment v. City of Richmond* 2010). This statement in the EIR affirmed the prominent role the community had played in the legal process. As Roger Lin noted, "My job is to hang with community and make sure that I act for them and what they want. It was the community who wanted to take this case to court" (Lin 2017). This case represented the first legal victory by an environmental justice organization against Chevron in Richmond.

In 2014, CBE filed suit against the Bay Area Air Quality Management District (BAAQMD) because it had prematurely granted Chevron an air permit for a new project, the Chevron modernization project, prior to the release of a draft EIR for the project. Like the 2010 case, CBE employed litigation through citing a procedural violation in environmental law. Roger Lin noted

“Chevron and BAAQMD were trying to leave the public out of the decision making process” (Lin 2017). Both parties in the case ultimately agreed to a settlement in which Chevron submitted a draft EIR to the public (*Communities for a Better Environment v. Bay Area Air Quality Management District and Chevron* 2014). Here, litigation allowed the public to review this new EIR and become part of the decision making process for the modernization project. The Richmond Confidential noted Richmond mayor Tom Butt saying “Communities for a Better Environment has been a major player in taking positions about Chevron that help educate the public and those who have to be in a negotiating position like the city and the air quality district about these critical issues. ... After the lawsuit, there became more of a legal commitment to keep Chevron accountable and submit a project that was really bulletproof” (Ioffe 2016). This case ultimately delineated litigation’s role as an aid to community organizing efforts within the city.

On August 6, 2012, a release of flammable vapor led to a fire at the refinery. The fire burned for several hours before being controlled and sent a huge plume of toxic black smoke over the area. More than 15,000 people were treated at hospitals for respiratory problems and other illnesses. (City of Richmond Sues Chevron 2013) On January 2015, the City of Richmond sued for several different kinds of damages including costs of “responding to the fire, public inquiries, and substances, as well as environmental and ecological damage.” The case is ongoing and still far from going to court, highlighting the time component as a consideration in legal action. This suit mainly concerns taxation, as the city argued that it “has incurred, and continues to incur, lost tax revenue as a result of the lower assessed value in connection with the real property where Chevron refinery is located” (*City of Richmond v. Chevron Corporation* 2015). Additionally, though, the city also seeks compensation for environmental and ecological degradation. McLaughlin noted, “As far as environmental justice goes, you need the resources to do better. We can access these resources through litigation” (McLaughlin 2017). Thus, this case demonstrates litigation as an important means of enabling Richmond to promote environmental justice.

All three of these cases demonstrated litigation’s role as a powerful tool in pursuing environmental justice within the city. Specifically, these cases revealed the value of litigation in ensuring corporate accountability and transparency by Chevron. In order to ensure this accountability and transparency, stakeholders have either cited violations in environmental law or sought monetary resources in order to pursue environmental justice. Additionally, stakeholders in each case filed suit upon the community’s urging for legal action or with the health of the

community and city in mind. These three cases demonstrated the high degree of community involvement present in environmental justice litigation within Richmond. Cases within the city have thus stemmed from the community's desire for legal action and centered around a need to hold Chevron responsible to the community and the city.

### **Limitations and Future Directions**

I was ultimately limited in my research by the number of interviews I conducted. Additionally, of these interviews, I only conducted one with an attorney. The majority of Richmond stakeholders I interviewed were self-identified community organizers who may have shared a biased opinion on litigation by the nature of their community work in the city. Because I primarily interviewed these self-identified community organizers, their perspectives predominate my findings. Furthermore, my findings were both limited in scale and context though there exists great potential for replicating this same research elsewhere. For example, cities like Los Angeles, CA, Chicago, IL, and Plaquemine, LA, have similar demographic compositions and industrial threats to environmental justice as Richmond (Brulle and Pellow 2006). Future research could investigate the role of litigation in pursuing environmental justice in these cities as I have done in Richmond.

I found that Richmond city council's politically progressive trend coincided with more environmental justice cases. Future research could investigate this trend in the contexts of future political compositions of the city council. Furthermore, at this point in time, the city's suit against Chevron is ongoing and far from being argued in court. Future research could examine the results of this case closely and its capacity to set a precedent for future cases to come in the city's legal fight against Chevron. Additionally, future research could investigate the effects of CBE's two cases (*CBE v. City of Richmond/ Chevron* (2010), *CBE v. Bay Area Air Quality Management District* (2014)) on changing Chevron's behavior with respect to environmental procedural laws.

### **Broader Implications**

In Richmond, California, litigation has proven an effective strategy in pursuing environmental justice when other strategies have failed. And even though litigation is often viewed



in light of legal expenses, time, political consensus needed to file suit, and the potential to spoil relationships between industry and community, stakeholders have used the litigation process to include community members in issues that seriously threaten environmental justice such as Chevron's Energy and Hydrogen Renewal and Modernization projects. Litigation has thus served as an important component of a broader environmental advocacy campaign within the city, as it has supported community organizing efforts and city environmental justice policies. Though stakeholders have used litigation to stall projects and attain compensation from damages incurred to the city by the refinery, they ultimately affirm its role as a tactic for ensuring responsible and environmentally just behavior by Chevron. With similar environmental justice struggles and demographic characteristics, other cities and advocacy organizations have employed litigation to challenge industries that threaten local environments and public health. For instance, in Los Angeles, CA, Chicago, IL, and Plaquemine, LA, litigation has been employed with similar motives and to the same effects as in Richmond (Brulle and Pellow 2006). Thus, litigation's ubiquitous use at local levels has made it a powerful option for addressing environmental justice issues with industry at any scale and in any context. Though stakeholders must take into account the initial costs of filing suit, there is no denying that litigation has proven an effective strategy for ensuring the long-term community well-being and environmental prosperity of the City of Richmond.

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