

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

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|----------------------------------|---|-----------------|
| In the matter of |) | |
| |) | |
| UNION OIL COMPANY OF CALIFORNIA, |) | Docket No. 9305 |
| |) | |
| a corporation. |) | |
| |) | |

**DECLARATION OF WILLIAM ENGIBOUS IN SUPPORT OF
CHEVRON’S SECOND MOTION FOR *IN CAMERA* TREATMENT**

I, William Engibous, declare as follows:

1. I am Manager, Business and Planning Operations, California Refining at Chevron U.S.A., Inc. (“Chevron”). My responsibilities in that capacity include planning matters for Chevron’s El Segundo and Richmond, California refineries, including directing gasoline blending operations at the refineries.

2. Chevron is not a party to the captioned matter.

3. The documents for which Chevron seeks *in camera* treatment, attached as Exhibits A-F hereto, are identified as:

| Exhibit | CX | Production Bates Numbers |
|----------------|--|--|
| A | 2074 | CHUNO-0000283 to 287 |
| B | 2075 | CHUNO-0000305 to 310 |
| C | 2076 | CHUNO-0000317 to 337 |
| D | 2167 | CHUNOBD-0000001 to 17 |
| E | 1782 | CHUNOBD-0000018 to 21 |
| F | Engibous Deposition Transcript 8/5/03 | Page 51, line 19 through page 52, line 11. Page 57, line 20 through page 58, line 13. Page 70, lines 9 through 20. |

3. I have reviewed the documents for which Chevron seeks *in camera* treatment. By virtue of my position as described above, I am familiar with the type of information contained in those documents. I am also generally familiar with the confidentiality protection afforded this type of information by Chevron. Based upon my review of these documents, my knowledge of Chevron’s business, and my familiarity

with the confidentiality protection that Chevron affords information of this type, it is my belief that disclosure of these documents to the public and to competitors of Chevron would cause serious competitive injury to Chevron.

Exhibits

4. Exhibit A (CX 2074; CHUNO-0000283 to 287) is a Reciprocal Patent Non-Assertion Agreement between Chevron and Kern Oil & Refining Co. executed on March 31, 2003. This document was created for the exclusive use of the parties to the Agreement. I am informed and understand that Exhibit A was produced to Union Oil Company of California (“Unocal”) with the designation “Confidential” pursuant to the Protective Order in this matter. Apart from that production, I am informed the Agreement has not been distributed to anyone outside of the parties, to the best of my knowledge. Chevron has invested significant legal resources and business efforts in reaching the final Agreement with Kern Oil & Refining Co. shown in Exhibit A. Disclosure of this document to Chevron’s competitors, or to other third parties with whom it desires to form comparable agreements, is likely to result in serious harm to Chevron’s business interests. Outside parties could exploit the information contained in Exhibit A to their advantage when negotiating the terms of their agreements with Chevron, or make use of the information in their business activities to the detriment of Chevron.

5. Exhibit B (CX 2075; CHUNO-0000305 to 310) contains a draft Reciprocal Patent Non-Assertion Agreement dated November 11, 2002 and a cover letter from W. Keith Turner, Chevron’s Chief Intellectual Property Counsel, and Martin Loeber, Counsel for Valero Energy Corporation, concerning the Agreement. This document is intended solely for use by the parties to the proposed Agreement, and other than its production to Unocal as a “Confidential” document pursuant to the Protective Order in this matter, I am not aware that it has been distributed to any third party. Within Chevron, the terms contained in Exhibit B are known by a small number of employees who participated in preparing the document or negotiating its provisions with Valero. Public disclosure of Exhibit B could cause serious competitive injury to Chevron. Third parties with whom Chevron is in the process of negotiating similar agreements could utilize the information concerning its terms to their commercial advantage, and at Chevron’s expense. Furthermore, if the provisions of a potential exchange of immunities between Chevron and Valero became public before the parties had finalized its terms, it could undermine their negotiations and prevent them from reaching agreement.

6. Exhibit C (CX 2076; CHUNO-0000317 to 337) contains a series of confidential e-mail communications between Jack B. Murray, Assistant Chief Attorney for Exxon Mobil Corporation (“ExxonMobil”) and W. Keith Turner, Chevron’s Chief Intellectual Property Counsel, and attaches a revised draft of a Fuel Patent Immunity Agreement dated November 25, 2002. The revisions reflect the input of legal counsel and technical advisors for the parties to the proposed Agreement. Exhibit C is intended solely for use by Chevron and ExxonMobil, and other than its production to Unocal as a “Confidential” document pursuant to the Protective Order in this matter, I am not aware

that it has been distributed to any third party. Within Chevron, knowledge of the patent immunity discussions with ExxonMobil and of the proposed Agreement's terms is confined to those legal and technical personnel with a "need to know" this information for operational reasons. Public disclosure of Exhibit C could cause serious competitive injury to Chevron. Third parties with whom Chevron is in the process of negotiating similar agreements could use knowledge of its terms to skew the bargaining process in their favor, and Chevron's disadvantage. Furthermore, if the provisions of a potential exchange of immunities between Chevron and ExxonMobil became public before the parties reached agreement, it could cause the negotiations to break off, resulting in mutual harm.

7. Exhibit D (CX 2167; CHUNOBD-0000001 to 17) is a series of spreadsheets containing detailed information for individual batches of CARB summertime gasoline produced in 2001 and 2002 at the El Segundo and Richmond Refineries. Exhibit E (CX 1782; CHUNOBD-0000018 to 21) is a related series of spreadsheets in the same format as Exhibit D, and it contains the refineries' 2003 CARB Phase 3 summertime gasoline batch data. I understand that these "batch data" documents were designated "Restricted Confidential – Attorney Eyes Only" pursuant to the Protective Order in this matter before being produced to Unocal. They contain highly confidential and commercially sensitive information about specific production volumes, the particular numerical properties and characteristics of those volumes and the methods by which those properties and characteristics are measured at the Richmond and El Segundo Refineries.

8. Disclosure of Exhibits D and E could cause real and serious damage to the competitive position of Chevron. A rival with access to the information contained in these documents would have the ability to determine certain production capacities, blending formulations and oxygenate requirements of Chevron's Refineries, and could use this inside information against Chevron when negotiating exchange agreements or competing for customers. Moreover, this knowledge could permit customers of Chevron to adjust their purchasing strategies for CARB summertime gasoline to take advantage of supply fluctuations and thereby reduce the average selling prices for Chevron's finished products. It could also provide leverage to suppliers of certain blendstocks when negotiating supply agreements with Chevron, which could raise Chevron's input costs.

9. Exhibit F contains excerpts from my deposition taken on August 5, 2003 by Respondent's Counsel in this matter. This testimony was given in my capacity as a representative of Chevron for certain topics identified by Unocal. It is my understanding that the entire transcript, including the portions contained in Exhibit F, have been designated "Restricted Confidential – Attorney Eyes Only" pursuant to the Protective Order in this matter. The first excerpt concerns Chevron's installation of new process equipment at the El Segundo Refinery to facilitate compliance with certain CARB Phase 3 specifications. (See Exhibit F at page 51, line 19 through page 52, line 11). My testimony refers to the impact this equipment has on this refinery's production of fuel intermediates and its blending methods, and states the approximate cost to Chevron for the installation. This information is commercially sensitive and highly material to

Chevron's future refining operations. Significant business and technical resources were spent in designing and implementing this capital project at the El Segundo Refinery. Disclosure of this information could enable a competitor to make similar process improvements at its facilities, but at a lower incremental cost and in a shorter time-frame. It could also negatively affect the rate of return that Chevron hoped to achieve from its substantial investment in the project.

10. Exhibit F also includes my testimony regarding changes Chevron made or considered at its Richmond Refinery to meet certain CARB Phase 3 requirements. (See Exhibit F at page 57, line 20 through page 58, line 13; and page 70, lines 9 through 20). The discussion in these portions of the transcript includes information about Chevron's particular process changes and their effects on this refinery's finished product allocation and volumes. It also contains Chevron's economic analysis of certain operating practices and quantifies their incremental cost to the refinery. This information is competitively sensitive and highly confidential. If it were disclosed publicly, Chevron could suffer serious economic harm. A competitor with access to this information could adjust its production strategies to offset Chevron's output plans. A rival could also incorporate this knowledge into its own refining methods, and thereby negate any commercial advantage that might otherwise flow to Chevron from these particular process changes.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this ___ day of October, 2003, in San Ramon, California.

William Engibous

**TABS A – F
REDACTED**