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Barefield, Jr. v. Chevron U.S.A Inc.

Judge Thelton Henderson

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Barefield, Jr. v. Chevron U.S.A Inc.

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United States District Court

Northern District of California

19
20 ARCHIE BAREFIELD, JR.; CORNELL)
BERT; JOHNNY COFFEE; PETE FLORES;)
21 LEON E. FRANCIES, Jr.; CLERENCE E.)
GORDON; SALVADOR MONARREZ;)
22 EULAS D. THOMAS; DeMELVIN WILLIAMS)
and ISMAEL GONZALES, on behalf of)
23 themselves and others similarly)
situated,)

No. C 86 2427 TEH

CIVIL

CONSENT DECREE IN FULL

SETTLEMENT OF LAWSUIT

24 Plaintiffs,)

25 vs.)

26 CHEVRON U.S.A. Inc.,)

27 Defendant.)
28)

I.

INTRODUCTION

1
2
3 A. Plaintiffs Archie Barefield, Jr., Cornell
4 Bert, Johnny Coffee, Pete Flores, Leon E. Francies, Jr.,
5 Clerence E. Gordon, Salvador Monarrez, Eulas D. Thomas and
6 DeMelvin Williams are oil field and maintenance employees
7 employed in Chevron U.S.A. Inc.'s Northern California Divi-
8 sion ("NCD") located primarily in Kern and King Counties,
9 California. On May 12, 1986, they filed this action
10 alleging that defendant Chevron U.S.A. Inc. ("Chevron")
11 discriminated against them and other black and Hispanic
12 employees in the NCD, with respect to certain of its employ-
13 ment practices, and because of their race and national
14 origin, in violation of Title VII of the Civil Rights Act of
15 1964, as amended, 42 U.S.C. section 2000e, et seq., the
16 Civil Rights Act of 1866, 42 U.S.C. section 1981
17 ("Section 1981") and the California Fair Employment
18 Practices Act, California Government Code section 12900, et
19 seq. The complaint, as amended, alleges claims for
20 discrimination in promotions, training, job assignments,
21 working conditions, performance and qualifications
22 evaluations, hostile work environment and retaliation.
23 Thereafter, plaintiff Ismael Gonzales was joined as a
24 plaintiff. On September 9, 1987, the Court issued its Order
25 certifying this action as a class action under Rule 23(b)(2)
26 of the Federal Rules of Civil Procedure. On June _____,
27 1991, the Court issued a further class certification Order,
28 certifying the claims for compensatory damages for emotional

1 | distress--based on alleged discriminatory denial of
2 | promotion and/or hostile work environment--as class action
3 | claims pursuant to Rule 23(b)(3) of the Federal Rules of
4 | Civil Procedure. All remaining claims in this action,
5 | including all claims for injunctive relief, any and all
6 | claims for punitive damages and any and all claims for back
7 | pay, front pay, wages, and employee benefits of any kind
8 | were certified pursuant to Rule 23(b)(2).

9 | B. The Court has jurisdiction of the parties and
10 | the subject matter of this action.

11 | C. Chevron contends that it is and has been in
12 | full compliance with the provisions of all applicable laws,
13 | rules and regulations. By entering into this decree Chevron
14 | does not admit, nor has the Court made any determination,
15 | that Chevron is or ever has been in violation of any law,
16 | rule or regulation. The Court has made no findings
17 | substantiating any of the allegations of liability made by
18 | the plaintiffs. All parties to this Decree enter into it in
19 | the spirit of compromise and to avoid the further delay,
20 | expense and uncertainty of further litigation. This Decree
21 | shall not be admissible, offered or referred to as evidence
22 | in any litigation, court proceedings or administrative
23 | proceedings except if offered by Chevron for purposes of res
24 | judicata. It is further agreed that any and all statements
25 | in Exhibit D to this Decree, and any and all statements in
26 | this Decree regarding job qualifications and source pools,
27 | are made for purposes of this Decree only and for purposes
28 | of settlement of disputed claims, and shall not be binding

1 on Chevron, or admissible or offered or referred to, in any
2 proceedings or litigation other than further proceedings
3 pursuant to this Decree. Consistent with the foregoing and
4 pursuant to the agreement of the parties, the Court having
5 been fully apprised:

6
7 Now, Therefore, IT IS ORDERED,
8 ADJUDGED AND DECREED as follows:

9
10 II.

11 A. This Decree shall include and the Court finds
12 the class of persons to be covered by this Decree and on
13 whose behalf this action is certified under Federal Rules of
14 Civil Procedure 23(b)(2) and (b)(3) to be as follows:

15 All current or former black and Hispanic
16 persons employed as Operating and Mechanical
17 ("O&M") employees, or as Operations Assistants, in
18 Chevron U.S.A. Inc.'s Northern California
19 Division, Production Department for the Western
20 Region, at any time during the period from May 12,
21 1983 up to and including the effective date of
22 this Decree.

23 B. The parties have engaged in extensive
24 discovery and settlement negotiations. They have now
25 resolved, in this Decree, all issues between plaintiffs and
26 the class members represented by plaintiffs and Chevron
27 relating to the alleged acts, practices and omissions of
28 Chevron, including any future effects of such alleged acts,

1 practices and omissions, which were or could have been
2 raised in the Third Amended Complaint ("Complaint") and/or
3 which were or could have been raised by any of the plain-
4 tiffs, or any of the class members, in their charges or
5 complaints filed with the United States Equal Employment
6 Opportunity Commission, the California Department of Fair
7 Employment and Housing and/or the Office of Federal
8 Contracts Compliance Programs (hereinafter "Agency
9 charges"). This settlement and Decree bar any claims and
10 future claims, in law or in equity, of any of the plaintiffs
11 and/or any of the class members which any of them may have,
12 may have had or in the future may have against Chevron, its
13 parent, subsidiaries, affiliates, operating companies,
14 agents, officers, managers, directors and employees, arising
15 prior to the final approval and entry of this Decree
16 regarding racial or national origin discrimination in
17 promotions, temporary promotions, relief assignments,
18 training, job assignments, duty assignments, working
19 conditions, compensation, performance and qualifications
20 evaluations, hostile work environment, harassment,
21 retaliation, emotional distress, pain or suffering, punitive
22 or exemplary damages and any and all claims brought or which
23 could have been brought in connection with the Complaint
24 and/or Agency charges, including any future effects of the
25 acts, practices or omissions therein alleged or which could
26 have been therein alleged; provided that this settlement and
27 Decree shall not bar, settle or otherwise affect any
28 Workers' Compensation claims the named plaintiffs or any

1 class member may have against Chevron pending before the
2 California Workers' Compensation Appeals Board.

3 C. The parties intend and agree that res
4 judicata shall apply to all named plaintiffs and members of
5 the class with respect to all issues of law and fact and
6 matters of relief within the scope of the Complaint and
7 Agency charges including, without limitation, discrimina-
8 tion or retaliation against blacks, Hispanics or blacks and
9 Hispanics and any alleged "continuing violation(s)" for the
10 period (of any part thereof) from the earliest date of hire
11 at Chevron of any plaintiff or class member until the
12 effective date of this Decree. This Decree is final and
13 binding among the signatories, their heirs, assigns and
14 successors in interest, and is final and binding on all
15 persons to whom the Court determines this Decree is
16 applicable. Any plaintiff or class member so desiring may
17 opt out of the class with respect to a compensatory damages
18 claim for emotional distress allegedly caused by
19 discriminatory denial of promotion(s) and/or by hostile work
20 environment, which claims have been certified in this action
21 pursuant to Rule 23(b)(3) of the Federal Rules of Civil
22 Procedure and are described in Section VII hereof. Any such
23 plaintiff or class member opting out will not be bound by
24 this Decree with respect to the compensatory damages claim
25 for emotional distress referred to above, and shall not be
26 eligible for the claims procedure set out in Section VII of
27 this Decree, but shall be bound by this Decree with respect
28 to all other claims covered by the Decree including, without

1 limitation, all claims for injunctive relief, all claims for
2 discriminatory denial of employment opportunities, and all
3 claims for punitive or exemplary damages.

4 D. This Decree does not resolve and shall not be
5 a defense to claims based on future alleged acts of
6 discrimination by Chevron, occurring subsequent to the entry
7 of this Decree, against individual black and Hispanic
8 persons employed by Chevron's Northern California Division,
9 Exploration, Land and Production Department for the Western
10 Region (the "NCD"), or any Chevron successor organization of
11 the NCD, except where such acts are required by this Decree.
12 Any black or Hispanic individual who believes that Chevron
13 has committed an act of discrimination against him or her
14 occurring after the effective date of this Decree may pursue
15 his or her claim of discrimination in any forum of proper
16 jurisdiction and venue for such claim.

17 E. Chevron shall not be required, and this
18 Decree shall not be construed as requiring Chevron, to
19 violate, or take any action inconsistent with, the terms and
20 conditions of its collective bargaining agreement with the
21 International Union of Petroleum and Industrial Workers
22 ("IUPIW") applicable to the NCD, or any successor agreement
23 with the IUPIW which embodies the seniority factor stated in
24 Article X.C.(1), of the current agreement.

25 F. The affirmative action goals set by this
26 Decree are good faith goals subject to the limitation and
27 condition that Chevron shall have no duty or obligation to
28 promote, transfer or give relief assignments to any employee

1 | who is not qualified for the position in question. The
2 | goals are not to be treated or construed as quotas that must
3 | be met, and no specific number of positions shall be set
4 | aside for black and/or Hispanic individuals. Rather, the
5 | goals are one factor to be considered in evaluating
6 | qualified candidates for promotions into job categories
7 | traditionally occupied by whites and other nonclass members,
8 | and in which there has been a manifest work force imbalance
9 | reflecting an under-representation of black and Hispanic
10 | employees. The goals do not purport to assign or imply any
11 | fault, responsibility or liability to Chevron, but are
12 | designed and implemented as a short-term measure to address
13 | and reduce these work force imbalances. The Court makes no
14 | findings against Chevron, or for Chevron, with respect to
15 | alleged discrimination, but does expressly find that the
16 | goals Chevron is implementing pursuant to this Decree are
17 | appropriate and lawful measures to properly address the work
18 | force imbalances which presently exist.

19 | G. Definitions:

20 | 1. The term Northern California Division ("NCD")
21 | refers to (i) Chevron's Northern California Division,
22 | Production Department for the Western Region to the extent
23 | of the Kern River, Taft, Cymric and Coalinga operations
24 | areas, the Field Services organization servicing those
25 | operations areas and the NCD staff organizations within the
26 | Production Department located in Bakersfield, California,
27 | such as they existed on January 1, 1990 and (ii) any
28 |

1 | successor organization of Chevron replacing the NCD but only
2 | to the extent of the same operations and functions described
3 | in (i) above.

4 | 2. The term "qualified" means that the person
5 | being judged meets Chevron's then existing selection
6 | criteria for the promotion, relief assignment or transfer in
7 | question.

8 | 3. The term "blacks and Hispanics" means the
9 | aggregation of blacks and Hispanics taken as a single group,
10 | with neither considered separately.

11 | 4. The term "availability of blacks and
12 | Hispanics" means the proportional representation of black
13 | and Hispanic employees (stated as a single percentage, i.e.,
14 | blacks and Hispanics taken together) in each source pool
15 | identified in subparagraphs II.G.7. and 8.

16 | 5. The term "Area Supervisor" collectively
17 | refers to the following exempt positions in the NCD Kern
18 | River, Taft, Coalinga, Cymric and Lost Hills Operations
19 | Areas: Area Operations Supervisor, Area Maintenance
20 | Supervisor, Area Craft Supervisor, Area Facilities
21 | Supervisor and Area G&NG Supervisor.

22 | 6. The term "exempt category" positions as used
23 | in this Decree means, collectively, Area Supervisor,
24 | Operations Advisor and Operations Assistant positions in the
25 | NCD Operations areas identified in paragraph II.G.5. and
26 | Drilling Representative, Construction Representative,
27 | Trainer and Environmental Specialist positions in the NCD
28 | Drilling, Facilities Engineering, Quality Improvement and

1 ESF&H departments. Also included are future exempt
2 positions hereinafter identified pursuant to paragraphs
3 II.G.13-15 for which the O&M jobs stated in paragraph
4 II.G.7. are a potential source pool in Chevron's judgment or
5 as determined by Court order pursuant to paragraph II.G.15.

6 7. The term "applicable O&M source pool" means
7 the pool of O&M employees occupying the particular O&M job
8 titles which are potential sources of employees for the
9 particular promotion, promotion category, relief assignment
10 category or transfer in question (in the case of transfers,
11 those who occupy the designated O&M job titles, as existing
12 in the NCD production department as of February 12, 1990 and
13 who have submitted the appropriate application as described
14 below). The applicable O&M source pools are composed of the
15 following job titles:

16 (a) Source pool for promotions from
17 nonexempt O&M positions into exempt category
18 positions--Head Operator, Head Electrician, Head
19 Mechanic, Electrician A, Mechanic A, Depth
20 Pressure Operator (DPO) and Oilfield Operator A
21 (OOA).

22 (b) Source pool for exempt category relief
23 assignments of nonexempt O&M employees--Head
24 Operator, Head Electrician, Head Mechanic, Lead
25 Electrician, Lead Mechanic, Electrician A,
26 Mechanic A, Depth Pressure Operator (DPO) and
27 Oilfield Operator A (OOA).

28

1 (c) Source pool for promotions to Head
2 Operator--OOA, DPO and Mechanic A Welder.

3 (d) Source pool for promotions to Head
4 Craft--Lead Electrician, Lead Mechanic, Mechanic A
5 and Electrician A.

6 (e) Source pool for promotions to Lead
7 Craft--Mechanic A and Electrician A.

8 (f) Source pool for transfers into
9 Technician positions--O&M employees who have a
10 current written application on file for such
11 technician jobs. Employees will be allowed to
12 submit such applications at designated times (at
13 least biannually).

14 (g) Source pool for transfers of Oilfield
15 Operators into the Craft Training Program--
16 Oilfield Trainees, Oilfield Operator Bs and OOAs
17 who have made a formal written application for
18 transfer into the Field Services Training Program
19 within the preceding 12 months.

20 8. The term "qualified O&M source pool" means
21 the applicable O&M source pool less the employees therein
22 who are not qualified for the type of promotion, promotion
23 category, relief assignment category or transfer in
24 question. In any case in which the black and Hispanic
25 availability percentage is greater in the applicable O&M
26 source pool than in the qualified O&M source pool determined
27
28

1 | by Chevron, the burden shall be on Chevron to justify its
2 | designation of unqualified candidates upon challenge by
3 | plaintiffs.

4 | 9. The term "goal" means the number obtained
5 | when the percentage which represents the availability of
6 | black and Hispanics in a particular qualified O&M source
7 | pool is multiplied times the total number of annual
8 | vacancies for which that pool was the source used to fill
9 | openings. A separate goal shall be calculated for each type
10 | of promotion, promotion category, relief assignment category
11 | and transfer for which a qualified O&M source pool is
12 | defined in paragraph II.G.8. This Decree does not, and
13 | shall not be construed as, creating any separate goals
14 | applicable to blacks or any separate goals applicable to
15 | Hispanics whatsoever.

16 | 10. With respect to promotion goals "vacancy"
17 | means an opening that is filled by promotion from the
18 | qualified O&M source pool. With respect to relief
19 | assignment category and transfer goals, "vacancy" means an
20 | opening that is filled by assignment and transfer from the
21 | qualified O&M source pool, respectively.

22 | 11. It is understood by the parties that the
23 | qualified O&M source pool defined herein for promotions to,
24 | and relief assignments in, exempt category positions is not
25 | the exclusive source of candidates for such promotions or
26 | relief assignments. Employees in other classifications and
27 | employees in other NCD departments--some at higher levels
28 | than O&M employees--are candidates for such openings, should

1 they occur. In filling such openings, nothing stated in
2 this Decree shall require Chevron to draw from the qualified
3 O&M source pool instead of other sources. By the same
4 token, it is further agreed that Chevron shall not avoid
5 drawing from the qualified O&M source pool for the purpose
6 of circumventing the goals established by this Decree. The
7 same principles stated in this paragraph shall apply with
8 respect to transfers into Craft Training and Technician
9 positions.

10 12. It is further understood that the O&M source
11 pools defined in paragraphs II.G.7(c), (d) and (e) are the
12 exclusive source pools for promotion into Head Operator,
13 Head Craft and Lead Craft, respectively.

14 13. Chevron shall provide plaintiffs' counsel
15 with notice of any new exempt job titles created in the NCD
16 after the effective date of this Decree and within the five-
17 year term of this Decree to the extent such new positions
18 include all or substantially all of the duties performed as
19 of May 1, 1990 by Operations Assistants or Foremen in the
20 NCD Operations department. In addition, after the effective
21 date of the Decree Chevron shall provide such notice with
22 respect to any newly-created NCD exempt job title which
23 includes all or substantially all of the duties performed by
24 NCD Drilling Representatives, Area Supervisors, Operations
25 Advisors, Operations Assistants, Construction
26 Representatives, Trainers or Environmental Specialists as of
27 the effective date of this Decree.

28

1 14.(a) The notice provided for in paragraph 13
2 above shall include a description of the required job duties
3 and job qualifications for the new position(s) in question
4 and a description of the expected potential sources of
5 candidates if promotions are made into the new position(s).
6 Under this Decree, plaintiffs may challenge the job
7 qualifications established by Chevron for such new
8 position(s) upon a showing that Chevron acted in bad faith
9 to exclude class members from promotions.

10 14.(b) Nothing in this Decree, including the
11 provisions of subparagraph (a) or the provisions of
12 paragraph IV.A., shall foreclose or bar plaintiffs from
13 challenging, in a separate lawsuit under applicable law, the
14 job qualification(s) for exempt category position(s) created
15 after May 1, 1990, if (1) Chevron fills such a position
16 after January 1, 1991 by promotion out of the qualified O&M
17 source pool for non-exempt O&M positions and (2) the black
18 and Hispanic availability percentage is greater in the
19 source pool for exempt category positions than in the
20 qualified source pool for such positions.

21 15. With respect to any such new exempt
22 position(s), as defined in paragraph II.G.13 above, if
23 Chevron takes the position that the O&M job titles stated in
24 paragraph II.G.7 are not a potential source pool for
25 promotions into the new exempt position in question,
26 plaintiffs may challenge that determination under this
27 Decree.

28

1 16. The term "promotion" means movement to a job
2 that is higher in the job hierarchy with an accompanying
3 salary or wage increase.

4 17. The term "effective date of the Decree" means
5 the date of final entry of the Decree by the Court.
6

7 III.

8 A. Chevron shall determine the availability of
9 blacks and Hispanics in each source pool defined in para-
10 graphs II.G.7. and 8. as of the effective date of the Decree
11 and at least annually thereafter as of the second, third and
12 fourth anniversary date of the Decree. The data required by
13 this paragraph shall be supplied to plaintiffs' counsel
14 pursuant to paragraph VIII.B. Should plaintiffs' counsel
15 have questions concerning Chevron's availability analysis,
16 Chevron shall, not later than 30 days after receipt of a
17 written request, supply plaintiffs' counsel with necessary
18 information relevant to calculating the availability
19 statistics required by this paragraph, including any
20 necessary information regarding the qualifications of
21 blacks, Hispanics and other persons in the pools. Disputes
22 involving the implementation or interpretation of this
23 paragraph shall be resolved by the Court upon the motion of
24 either party after a good faith effort by the parties to
25 resolve any differences through negotiation.
26
27
28

1 B. During each year the Decree is in effect,
2 Chevron shall make a good faith effort to be in compliance
3 with the goals established pursuant to paragraph II.G.9. of
4 this Decree.

5 C. Chevron's obligations under paragraph II.B.
6 shall be suspended with respect to promotions into Head
7 Operator, Head Craft and/or Lead Craft positions if, at the
8 end of any year, the percentage of blacks and Hispanics
9 holding those job titles equals or exceeds the availability
10 of blacks and Hispanics in the qualified source pool (as
11 defined in paragraph II.G.8) for those job titles. If
12 Chevron's obligation under paragraph II.B. is suspended
13 pursuant to this paragraph, the obligation shall be
14 reimposed only if, at the end of any succeeding year of this
15 Decree, the number of blacks and Hispanics in the
16 position(s) in question is two or more below the number of
17 blacks and Hispanics necessary to meet Chevron's obligations
18 for that particular type of promotion, or transfer, under
19 paragraph II.B. Should the parties disagree, the court
20 shall determine, prior to any suspension going into effect,
21 if Chevron is entitled to have its obligation(s) under
22 paragraph II.B. suspended. Chevron shall have the burden of
23 proof in any such proceeding.

24 D. In any year in which the calculation of a
25 goal yields a fraction of a job, that job need not be filled
26 by a black or Hispanic candidate in that year. If, however,
27 the job is not filled by a black or Hispanic candidate in
28 that year, the fraction of a job shall be carried forward on

1 a cumulative basis to the next year, or years, for purposes
2 of determining the goal. Similarly, where the calculation
3 of a goal results in a fraction of a job and the job is
4 filled by a black or Hispanic, a fractional "surplus" shall
5 be carried forward to the next year, or years, for purposes
6 of determining the goal. In the final year of the Decree,
7 (including any case in which the Decree is extended pursuant
8 to paragraph XI.F., fractions less than .50 shall be rounded
9 to zero while fractions of .50 or greater shall be rounded
10 to one.

11 E. Chevron shall be deemed in compliance with
12 this Decree's affirmative action goals if its selections do
13 not fall significantly below any of the goals calculated
14 pursuant to paragraph II.G.9.

15 F. For purposes of this Decree's promotion and
16 promotion category goals, "significantly below" means that
17 Chevron's selections, during the five-year term of this
18 Decree, fall within four selections of the aggregated sum
19 total of black and Hispanic selections indicated by all
20 goals calculated pursuant to paragraph II.G.9., provided
21 that upon completion of the five-year term Chevron shall be
22 no more than three black and Hispanic selections below the
23 aggregated sum total of selections indicated by said goals.
24 In the event the term of this Decree is extended to six
25 years pursuant to paragraph XI.F., Chevron shall be deemed
26 in compliance if its selections fall within five selections
27 of the aggregated sum total of black and Hispanic selections
28 indicated by all goals calculated pursuant to paragraph

1 II.G.9., provided that upon completion of the six-year term
2 of the Decree, Chevron shall be no more than three black and
3 Hispanic selections below the aggregated sum total of
4 selections indicated by said goals. In the event the term
5 of this Decree is extended to seven years pursuant to
6 paragraph XI.F., Chevron shall be deemed in compliance if
7 its selections during the seven year term of this Decree
8 fall within seven selections of the aggregated sum total of
9 black and Hispanic selections indicated by all goals
10 calculated pursuant to paragraph II.G.9., provided that upon
11 completion of the seven-year term of the Decree Chevron
12 shall be no more than three black and Hispanic selections
13 below the aggregated sum total of selections indicated by
14 said goals.

15 G. Notwithstanding the provisions of paragraph
16 III.F. above, and regardless of the duration of this Decree,
17 Chevron must, to be in compliance, be within one selection
18 of the sum total of black and Hispanic selections indicated
19 by the goal for promotions into exempt category jobs upon
20 termination of this Decree.

21 H. For purposes of this Decree's goals with
22 respect to exempt category relief assignments, transfers
23 into Technician positions and transfers into the Craft
24 Training Program, "significantly below" means that Chevron's
25 selections for the specific goal in question, over the
26 entire term of this Decree, fall within three selections of
27 the sum total of black and Hispanic selections indicated by
28 the goal in question.

1 I. At the end of each year the Decree is in
2 effect, Chevron shall determine if the goals, as defined in
3 paragraph II.G.9. and as adjusted pursuant to paragraph
4 III.D., were attained in the preceding year. The data
5 required by this paragraph shall be supplied to plaintiffs'
6 counsel pursuant to paragraphs VIII.B., C. and D. Should
7 plaintiffs' counsel have questions concerning Chevron's
8 analysis under this paragraph, Chevron shall, not later than
9 30 days after receipt of a written request, supply
10 plaintiffs' counsel with necessary information relevant to
11 calculating attainment with the goals. Any disputes
12 involving the implementation or interpretation of this
13 paragraph which the parties are unable to resolve after good
14 faith efforts shall be resolved by the Court upon the motion
15 of either party.

16 J. Should Chevron, in any year, fall signifi-
17 cantly below any goal, or goals, Chevron shall still be
18 deemed to have exercised good faith efforts and thus to be
19 in compliance with the Decree if Chevron demonstrates by a
20 preponderance of the evidence:

21 (1) that it extended bona fide offers of promo-
22 tion, relief assignment or transfer to a sufficient number
23 of blacks and Hispanics to achieve compliance with the
24 goal(s) in question had the offers been accepted;

25 (2) that there were an insufficient blacks and
26 Hispanics in the source pool(s) in question who were "well
27 qualified" for particular opening(s) that occurred within
28 the job title(s) in question. Under such circumstances, any

1 opening(s) for which there is an insufficient number of well
2 qualified class members in the source pool shall not be
3 counted as a vacancy(s) for purposes of calculating the
4 goal(s) pursuant to paragraph III.G.9. This provision shall
5 not be construed as excusing Chevron from meeting a goal on
6 the ground that a class member was allegedly not the "best
7 qualified" candidate for the vacancy in question;

8 (3) Operation of the Collective Bargaining

9 Agreement prevented Chevron from achieving a goal. Where
10 Chevron relies on the "seniority" provision of the
11 Collective Bargaining Agreement as the reason for not
12 achieving the promotion goal to Head Operator or Head Craft,
13 Chevron shall be excused from achieving the goal only upon a
14 showing that for each promotion going to a more senior
15 nonclass member, the qualifications of that nonclass member
16 were at least "relatively equal" to the qualifications of
17 the best qualified class members who were also eligible and
18 available for the promotion; or

19 (4) Other legitimate, nondiscriminatory reasons
20 caused Chevron to fall significantly below the goal.

21 K. With respect to initial placements in exempt
22 Operations Department jobs in connection with the 1990
23 reorganization of the NCD exempt job structure, Chevron
24 agrees to make good faith efforts to meet the following
25 goals:

- 26 1. a goal to place at least six of the
27 eight class members presently holding exempt
28 Operations Department jobs ("exempt class

1 members") into exempt positions in the new
2 organization. All such placements of exempt class
3 members pursuant to this paragraph shall be into
4 any one of the job titles identified in paragraph
5 II.G.6. hereof and shall involve no reduction in
6 salary group for the individual being placed;

7 2. a goal that two of the exempt class
8 members placed pursuant to paragraph III.G.1. be
9 assigned to Area Supervisor positions;

10 3. a goal to keep five of the exempt class
11 members placed pursuant to paragraph II.G.1. in
12 exempt positions for a period of five years after
13 the effective date of this Decree, regardless of
14 subsequent force reductions which may occur
15 sooner. For purposes of meeting this goal,
16 Chevron shall be entitled to count as continuously
17 placed, exempt class members who have voluntarily
18 retired or voluntarily transferred subsequent to
19 the effective date of this Decree, and/or any
20 exempt class members discharged for cause
21 subsequent to the effective date of this Decree.

22 L. If Chevron does not meet the goals
23 established in Part III.K., the burden shall be on Chevron
24 to establish that it made good faith efforts to do so.

25 M. In the event Chevron is in compliance with
26 the above-referenced goals and there has been a net
27 reduction, subsequent to the effective date of this Decree,
28 in the number of exempt NCD job positions in the Operations

1 Department job titles (presently Division Manager, Area
2 Supervisor, Operations Advisor, and Operations Assistant),
3 then this Decree shall have the following preclusive and
4 binding effect on the class:

5 1. Plaintiffs and/or class members who hold
6 or have held NCD exempt category job positions at
7 any time are barred by the this Decree from making
8 any claims whatsoever in any forum, other than
9 individual disparate treatment or retaliation
10 claims, with respect to future placements or
11 promotions of employees into NCD exempt category
12 jobs during the five-year term of this Decree.

13 2. Plaintiffs and/or class members who hold
14 nonexempt jobs, and who are not covered by
15 subparagraph M.1. above, are barred by this Decree
16 from making any claims whatsoever in any forum,
17 other than individual disparate treatment or
18 retaliation claims, challenging any future
19 placements or promotions of exempt employees into
20 NCD exempt category positions during the five-
21 year term of this Decree.

22 N. Regardless of whether or not there is a net
23 reduction in NCD Operations Department job positions, as
24 described in III.M. above, this Decree bars the plaintiffs
25 and class members from making or bringing any claims for
26 disparate impact with respect to the future employment
27 actions covered by this Decree, i.e., (1) promotions,
28 (2) relief assignments in exempt category jobs,

1 (3) transfers into Craft training and/or (4) transfers into
2 technician positions to the extent such claims address the
3 period covered by this Decree, or any part thereof. Nothing
4 stated in this paragraph, however, shall be construed as a
5 bar to the claims specified and authorized by paragraphs
6 II.G.14(b) and IV.B. of this Decree, or as a bar to an
7 action to enforce the Decree.

8
9 IV.

10 A. For purposes of this Decree, Chevron shall
11 have complete discretion to determine the nature, content
12 and terms of the application procedures and selection
13 criteria for promotions, relief assignments and transfers,
14 but shall not adopt any new selection criteria or procedures
15 insofar as such new criteria or procedures would be adopted
16 in bad faith to thwart the opportunities of class members.

17 B. With respect to exempt category job types
18 created in the NCD between May 1, 1990 and the effective
19 date of this Decree (Area Supervisor, Operations Advisor and
20 Operations Assistant), this Decree shall not bar a
21 challenge, in a future and separate lawsuit, to Chevron's
22 use of a job requirement or qualification which affects the
23 qualified O&M source pool in the manner described in
24 paragraph II.G.8., lines 2-7.

25 C. Chevron agrees that it shall not retaliate
26 against any named plaintiff or class member for commencing
27 or pursuing the above-referenced case or any claims under
28 Sections VI. or VII. of this Decree.

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v.

A. At the Court's direction, notice of the pendency of this action, in the form attached hereto as Exhibit A, was duly mailed in the first class U.S. mail by Chevron on September 26, 1990 to each class member at their last addresses of record with Chevron. None of the notices were returned by the Postal Service as undeliverable. Pursuant to the Court's Order, the notice was also published in the Bakersfield Californian on October 12, 1990.

B. Not later than 21 days after the effective date of the Decree, Chevron, at its expense, shall mail a Loss of Promotion Back Pay Claim Form ("Lost Pay Claim Form") and a Compensatory Damages Claim Form to each class member as to whom the Notice was not returned on each occasion as undeliverable pursuant to paragraph V.A.

C. In the event the Lost Pay Claim Form and the Compensatory Damages Claim Form are returned as undeliverable, the envelope shall be checked for typographical errors, but absent such an error, no further effort will be made to provide the class member with the forms.

D. Class members shall have 45 days in which to return the completed Lost Pay Claim Form and/or Compensatory Damages Claim Form to plaintiffs' counsel. The 45-day period shall commence on the date the Lost Pay Claim Form is mailed and the date of return shall be determined by the postmark. Failure to return the Lost Pay Claim Form and/or the Compensatory Damages Claim Form within 45 days shall bar

1 the class member from participating in the Lost Pay
2 Settlement Fund under Section VI or from seeking
3 compensatory damages for emotional distress under
4 Section VII.

5 E. The Lost Pay Claim Form shall be in the
6 format attached hereto as Exhibit B which allows the class
7 member to state under oath:

8 (1) that he/she is black or Hispanic;

9 (2) the position(s) held while employed in
10 the NCD;

11 (3) the dates employed in each position;

12 (4) that he/she was interested in, but was
13 wrongly denied a promotion by Chevron based on
14 race or national origin;

15 (5) the basic facts supporting the assertion
16 of discrimination, including, to the extent
17 possible, the specific promotion(s) lost.

18 F. The Compensatory Damages Claim Form shall be
19 in the format attached hereto as Exhibit C which allows the
20 class member to state under oath:

21 (1) that he/she is black or Hispanic;

22 (2) the position(s) held while employed in
23 the NCD Production Department;

24 (3) the dates employed in each position;

25 (4) that he/she has suffered emotional
26 distress as a result of not receiving a promotion,

27 ---

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1 and/or that he/she was harassed on the job due to
2 race or national origin by one or more Chevron
3 employees;

4 (5) the facts which support his/her claim of
5 emotional distress resulting from not being
6 promoted;

7 (6) the facts which support his/her claim of
8 emotional distress from alleged harassment by a
9 Chevron employee(s) due to race or national origin
10 including time, place, circumstances and person(s)
11 involved in each alleged incident of harassment;

12 (7) whether he/she believes Chevron foremen,
13 managers or officials were aware of the race or
14 national origin based harassment he/she alleges
15 and the factual basis for any such belief;

16 (8) the names and addresses of any health
17 care professionals with whom the claimant
18 conferred about the emotional distress.

19 G. In the event of a dispute regarding class
20 member status of an individual, counsel for the parties may
21 submit the issue for resolution to the Master agreed upon or
22 appointed pursuant to Part VII of this Decree.

23
24 VI.

25 A. Chevron shall pay \$800,000 in settlement of
26 claims including, without limitation, back pay, front pay,
27 and lost employee benefits from alleged loss of employment
28 opportunities ("Lost Pay Settlement Fund").

1 B. Eligibility to participate in the Lost Pay
2 Settlement Fund, and the amount to be received by each
3 eligible participant, shall be determined pursuant to the
4 following terms and conditions:

5 1. The time period for eligibility for
6 participation in the Lost Pay Settlement Fund is May 1, 1980
7 to April 30, 1986. This time period shall be divided into
8 four time brackets:

9 (a) May 1, 1980 to April 30, 1983

10 (b) May 1, 1983 to April 30, 1984

11 (c) May 1, 1984 to April 30, 1985

12 (d) May 1, 1985 to April 30, 1986

13 2. The number of promotions to exempt positions
14 lost to class members during each time bracket is deemed to
15 be as follows:

<u>Time Bracket</u>	<u>Lost Promotions</u>
5-1-80 to 4-30-83	4.0
5-1-83 to 4-30-84	1.4
5-1-84 to 4-30-85	2.9
5-1-85 to 4-30-86	1.7

21
22 3. Each class member who timely submits a
23 completed Lost Pay Claim Form in which the member certifies
24 that he/she is black or Hispanic; that he/she had an
25 interest in being promoted an exempt position, that prior to
26 or at the time of such interest, he/she held a position as
27 operations assistant, head operator, head or lead craft,
28 Craft A, depth pressure operator or oilfield operator A or

1 B; and that, at the time of such interest, he/she believes
2 he/she was wrongfully denied a promotion based on race or
3 national origin shall be eligible to share as having lost
4 the opportunity for promotion to an exempt position during
5 one or more time bracket(s) as set forth below:

6 (a) Claimants with a hire date of December
7 31, 1979 or before--time brackets B.1.(a)-(d).

8 (b) Claimants with a hire date between
9 January 1, 1980 and December 31, 1980--time
10 brackets B.1.(b)-(d).

11 (c) Claimants with a hire date between
12 January 1, 1981 and December 31, 1981--time
13 brackets B.1.(c)-(d).

14 (d) Claimants with a hire date between
15 January 1, 1982 and December 31, 1982--time
16 bracket B.1.(d).

17 (e) Claimants with a hire date of January 1,
18 1983 or later--no share.

19 4. Each claimant eligible to share as having
20 lost an opportunity for promotion to an exempt position
21 during a time bracket shall receive an amount for that time
22 bracket which equals a constant times the number of lost
23 promotions in that time bracket times an appropriate lost
24 pay factor times an appropriate remoteness factor. The
25 constant shall be set so that the sum of all amounts to be
26 received by all claimants equals the amount in the Lost Pay
27 Settlement Fund, less amounts paid pursuant to subparagraphs
28 VI.B.6 and VI.B.7, infra.

1 5. The remoteness factor shall be deemed to be
2 as follows:

3 <u>Time Bracket</u>	<u>Remoteness Factor</u>
4 5-1-60 to 4-30-83	7.0
5 5-1-83 to 4-30-84	6.5
6 5-1-84 to 4-30-85	5.5
7 5-1-85 to 4-30-86	4.5

8 6. Each class member who timely submits a
9 completed Lost Pay Claim Form in which the member certifies
10 that he/she is black or Hispanic; that he/she has a
11 seniority date of December 31, 1975 or before; that he/she
12 had an interest in being promoted to a head or lead craft
13 position, a head operator position or a depth pressure
14 operator position at any time on or before March 31, 1986;
15 that, prior to or at the time of such interest, he/she held
16 an oilfield operator A, craft A, depth pressure operator or
17 lead craft position; and that, at the time of such interest,
18 he/she was denied a promotion to a nonexempt position
19 because of discrimination based on race or national origin;
20 shall be eligible for an award of \$5,000 (hereinafter
21 "nonexempt award"). Notwithstanding the above, the total
22 amount distributed from the Section VI fund in nonexempt
23 awards shall not exceed \$100,000. In the event the total
24 nonexempt award eligibility of the class exceeds \$100,000,
25 each eligible class member shall receive his/her pro rata
26 share of the \$100,000.

27 7. Each class member who timely submits a
28 completed Lost Pay Claim Form in which the class member

1 certifies that he/she is black or Hispanic and that he/she
2 had an interest in being promoted, but who is not entitled
3 to an award pursuant to paragraphs VI.B.4-6, shall receive a
4 lost pay award of \$500 (hereinafter "minimum award"),
5 provided that class members who would have been entitled to
6 an award of between \$0 and \$499 pursuant to
7 paragraphs VI.B.4-6, shall also receive the minimum award in
8 lieu of any award pursuant paragraphs VI.B.4-6.
9 Notwithstanding the above, the total amount distributed from
10 the Section VI fund in minimum awards shall not exceed
11 \$50,000. In the event the total minimum award eligibility
12 of the class exceeds \$50,000, each eligible class member
13 shall receive his/her pro rata share of the \$50,000.

14 VII.

15 A. Chevron shall pay a minimum of \$710,000 and a
16 maximum of \$750,000 into a settlement fund in settlement of
17 the compensatory damages claims for emotional distress of
18 the named plaintiffs and class members alleging emotional
19 distress from alleged loss of promotional opportunities
20 and/or alleged hostile work environment harassment based on
21 race or national origin ("Compensatory Damages Fund"). In
22 the event that any of the named plaintiffs opt out of the
23 Compensatory Damages Fund pursuant to paragraph II.C. of
24 this Decree, the amount payable into the Compensatory
25 Damages Fund shall be reduced by \$20,000 per opt out, up to
26 a maximum reduction of \$40,000.

27 B. Distribution of the Compensatory Damages Fund
28 shall be made in binding arbitration before a Special Master

1 (Master) who shall be selected by the parties. If agreement
2 on a Master cannot be reached, the Master shall be appointed
3 by the Court. The Master shall receive a copy of this
4 Decree and shall have final, nonreviewable authority to hear
5 and decide all claims for emotional distress damages. The
6 cost and expenses of the Master shall be paid 50% by Chevron
7 and 50% out of the Compensatory Damages Fund, except that in
8 no event shall the contribution from the Compensatory
9 Damages Fund exceed \$5,000.

10 C. The following procedures and guidelines shall
11 govern claims for emotional distress damages. To be prima
12 facie eligible for emotional distress damages from lost
13 promotion(s), a claimant must have sought and been found
14 eligible to recover an award from the Lost Pay Settlement
15 Fund pursuant to paragraphs IV.B.4-6.

16 1. To recover emotional distress damages from
17 lost promotion(s), an eligible claimant must: (a) identify
18 a specific promotion opening(s) which the claimant alleges
19 was discriminatorily denied to him or her and (b) prove to
20 the satisfaction of the Master that denial of the
21 promotion(s) so identified proximately caused the claimant
22 emotional distress.

23 2. Where an eligible claimant has satisfied the
24 requirement of paragraph VII.C.1(a) above, Chevron shall not
25 contest the issue of alleged denial of the promotion, but
26 may contest the issue of resulting emotional distress by
27 establishing, by a preponderance of the evidence, that the
28 claimant's alleged perception that he/she was

1 | discriminatorily denied the promotion(s) in question was
2 | unreasonable. Chevron may also introduce other evidence
3 | tending to show lack of proximate causation; and/or lack of
4 | damages (injury).

5 | 3. All claimants who timely submit completed
6 | compensatory damages claim forms alleging emotional distress
7 | damages from an alleged hostile work environment shall be
8 | eligible to pursue such claims. To recover emotional
9 | distress damages for a hostile work environment, an eligible
10 | claimant must prove to the satisfaction of the Master that
11 | (i) the harassment complained of was based on his/her race
12 | or national origin, and (ii) it was pervasive enough so as
13 | to alter the conditions of employment and create an abusive
14 | work environment. The Master shall also consider whether
15 | Chevron is legally responsible for the harassing employee's
16 | conduct by virtue of respondeat superior. In considering
17 | the sufficiency of the showing on the above elements, the
18 | Master shall be guided by the rules of decision stated in
19 | Exhibit D hereto.

20 | 4. For each compensatory damages claim, the
21 | Master shall review and consider the Compensatory Damages
22 | Claim Form, the testimony of the claimant and any
23 | documentary evidence introduced by the claimant or Chevron.
24 | No other testimony or evidence shall be admissible, except
25 | that where the Master deems it relevant and appropriate to
26 | the claim before him/her, testimony and evidence received in
27 | connection with other class members' claims brought pursuant
28 | to Section VII may also be considered.

1 5. The claimant may, but is not required to, be
2 represented by an attorney (Claimant's Representative).
3 Chevron may also participate in the hearing through its
4 representative or legal counsel (Chevron Representative).
5 The Chevron Representative shall be entitled to introduce
6 documents and pose questions to the claimant regarding the
7 claim but shall not call any witnesses. The claimant and
8 Chevron, or their respective representatives, shall be
9 allowed to make closing statements. No opening statement
10 shall be allowed, nor shall any written briefs be accepted.
11 The hearing on each claim shall be completed in no more than
12 two hours, absent extraordinary circumstances or stipulation
13 by the claimant and Chevron.

14 6. The admissible "documentary evidence" for
15 purposes of paragraph VII.C.4. shall be limited to any
16 declarations on file with the Court in this action
17 (excluding all pleadings, briefs and legal memoranda),
18 documents from NCD files produced in discovery in this
19 action, workers compensation file documents, medical reports
20 and evaluations pertaining to the claimant, his/her
21 condition or course of medical treatment, declarations by
22 medical experts, deposition excerpts, and correspondence and
23 memoranda between the claimant and Chevron management or
24 personnel. Interrogatory answers provided under oath in
25 this action by the parties shall also be received in
26 evidence. All evidence shall be given the weight the
27 Master, in his/her discretion, determines to be appropriate.
28 All documentary evidence must be received by the Master at

1 | least 48 hours prior to the hearing, at which time the
2 | Master will make the documents available for inspection by
3 | the claimant and Chevron. No documents created subsequent
4 | to that time or not provided to the Master at that time
5 | shall be admitted.

6 | 7. Although not a prerequisite to recovery,
7 | convincing corroborating medical evidence of emotional
8 | distress shall be given substantial weight by the Master.

9 | 8. If the Master decides that the claimant
10 | suffered emotional distress as the proximate result of not
11 | receiving a promotion and/or as a proximate result of being
12 | subjected to a hostile work environment due to race or
13 | national origin, the Master shall make a single, preliminary
14 | award of damages to the claimant. Such awards shall be
15 | limited to damages for severe emotional distress injury
16 | only. No amounts for back or front pay, employee benefits,
17 | wages or compensation of any kind, punitive or exemplary
18 | damages, or medical expenses or costs, or any amounts
19 | recoverable in workers' compensation proceedings shall be
20 | awarded from this fund.

21 | 9. If the total of all preliminary awards for
22 | emotional distress damages is equal to or less than the
23 | amount of the fund, each claimant shall receive the amount
24 | of his/her preliminary award. The Master shall be under no
25 | obligation to award the entire fund. Any amount remaining
26 | in the Compensatory Damages Fund after the payment of all
27 | awards under this paragraph shall revert to Lost Pay
28 |

1 Settlement Fund and shall be awarded in accordance with the
2 distribution principles established in Section V.

3 10. If the total of all preliminary awards for
4 emotional distress exceeds the amount of the fund, each
5 successful claimant shall receive his/her pro rata share of
6 the Compensatory Damages Fund based on the amount of his/her
7 award as compared to the total of all awards.

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VIII.

10 A. Applicable Source Pool Reports.

11 1. Within 60 days after the effective date of
12 the Decree, Chevron shall submit to plaintiffs' counsel a
13 report which shows:

14 (a) The total number of persons in each source
15 pool defined in paragraphs II.G.7. and 8. as of the
16 effective date of the Decree.

17 (b) The total number of blacks and Hispanics
18 in each source pool defined in paragraphs II.G.7
19 and 8 as of the effective date of the Decree.

20 2. If the percentage of blacks and Hispanics in
21 a particular qualified source pool is one percentage point
22 or more below the percentage of blacks and Hispanics in the
23 applicable source pool, then Chevron shall provide
24 plaintiffs' counsel a complete explanation of the reasons
25 for the differential.

26 3. Within 20 days after the end of each of the
27 first four years (or if extended, the fifth and sixth years)
28 that the Decree is in effect, Chevron shall supply the

1 reports required by paragraph VIII.A.1. (except that the
2 data shall be as of the first day of the year, not the
3 effective date of the Decree) and, if necessary, the
4 information required by paragraph VIII.A.2.

5 B. Annual Promotion Vacancy Filling Reports.

6 1. Within 45 days after the end of each year the
7 Decree is in effect, Chevron shall submit to plaintiffs'
8 counsel reports which show for the preceding year:

9 (a) the total number of positions filled for
10 which a qualified O&M source pool was the source
11 of candidates. These data shall be supplied
12 separately for each source pool.

13 (b) the job title and job location of each
14 position filled for which a qualified O&M source
15 pool was the source of candidates.

16 (c) the number of positions for which a
17 qualified O&M source pool was the source of
18 candidates which were filled by blacks and
19 Hispanics.

20 (d) the job title and job location of each
21 position filled by blacks and Hispanics.

22 C. Annual Relief and Field Service Training
23 Assignment Reports.

24 1. Within 45 days after the end of each year the
25 Decree is in effect, Chevron shall submit to plaintiffs'
26 counsel reports which show for the preceding year:

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1 (a) the total number of exempt relief
2 assignments and the total number of field service
3 training assignments (stated separately) filled
4 for which a qualified O&M source pool was the source of
5 candidates.

6 (b) the job title for each relief assignment
7 filled.

8 (c) the number of relief assignments and
9 field service training assignments (stated sepa-
10 rately) for which a qualified O&M source pool was
11 the source of candidates which were filled by
12 blacks and Hispanics.

13 (d) the job title of each job assignment
14 filled by blacks and Hispanics.

15 D. Annual Technician Transfer Report.

16 1. Within 45 days after the end of each year the
17 Decree is in effect, Chevron shall submit to plaintiffs'
18 counsel reports which show for the preceding year:

19 (a) the total number of transfers into
20 Technician positions by O&M employees who applied
21 (see paragraph II.G 7.f) for such transfers.

22 (b) the total number of class members who
23 received such transfers.

24 E. Annual Work force Reports.

25 1. Within 90 days after the effective date of
26 the Decree and within 45 days after the end of each year the
27 Decree is in effect, Chevron shall supply reports to plain-
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1 expressly authorized in the claims procedures established in
2 Sections VI and VII hereof.

3 B. No claimant shall receive any award from any
4 of the lost pay and/or compensatory damages funds
5 established in this Decree, prior to executing a release of
6 claims in the form attached hereto as Exhibit E. Under the
7 following circumstances, said form of release shall be
8 modified to exclude claims for compensatory damages for
9 emotional distress based on alleged discriminatory denial of
10 promotion and/or hostile work environment: (i) in the case
11 of any named plaintiff or class member who opts out pursuant
12 to paragraph II.C., or (ii) in the case of all named
13 plaintiffs and class members if Chevron terminates
14 Section VII of the Decree pursuant to paragraph XI.G.
15 Failure to execute the required release pursuant to this
16 paragraph shall in no way insulate or exclude a named
17 plaintiff or class member from the binding and res judicata
18 effect of this Decree, and its resolution and extinguishment
19 of claims, as stated in paragraph II.B. hereof.

20
21 X.

22 Pursuant to paragraph I.C. of this Decree, any and
23 all claims of plaintiffs, their attorneys and the class they
24 represent, for attorneys' fees and costs in this action, are
25 hereby fully and finally discharged on the terms and
26 conditions set forth in Exhibit F to this Decree.

XI.

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2 A. Upon the written request of either party and
3 before any matter is presented to the Court for resolution,
4 the parties shall meet and confer with respect to any issues
5 regarding the interpretation, application or alleged
6 breaches of this Decree. Unless time is waived by the
7 requesting party, the meeting shall take place not later
8 than 20 days after the date the request is made.

9 Notwithstanding the provisions of this paragraph, a party
10 may present a matter to the Court without the prior meeting
11 contemplated by this paragraph if the facts could reasonably
12 be construed to support the issuance of a temporary
13 restraining order ("TRO") or preliminary injunction, in
14 which case the procedural rules applicable to such TRO or
15 preliminary injunction proceedings in this Court shall
16 apply.

17 B. If issues are not resolved pursuant to para-
18 graph XI.A, the parties may, upon a showing of reasonable
19 cause to the Court, undertake discovery concerning the
20 disputed issues.

21 C. Any additional interpretations and/or
22 applications of this Decree agreed to by the parties shall
23 be reduced to writing and filed with the Court. Upon
24 approval by the Court, such agreements shall be deemed
25 supplements to this Decree.

26 D. If the plaintiffs and Chevron are unable,
27 after good faith efforts, to reach agreement on a disputed
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1 issue, then either the plaintiffs or Chevron may move the
2 Court for an order resolving the disputed issue.

3 E. The Court shall retain jurisdiction for
4 purposes of adjusting and resolving any conflict(s) which
5 arise between the purpose and/or operation of the goals
6 established by this Decree in paragraph III.G.9. and the
7 legitimate interests of nonclass members employed in the
8 NCD. Any such nonclass member who believes his or her
9 legitimate interests have been unfairly and adversely
10 affected by the operation of the goals, or that he or she is
11 otherwise aggrieved by application or operation of the
12 goals, may submit such claim to the Court for review. The
13 Court shall have authority to adjust and resolve any such
14 conflict(s), as required, and consistent with applicable
15 federal equal employment opportunity law, including
16 relaxation, suspension, waiver or removal of a goal or goals
17 if appropriate. Any such claim(s) by nonclass members may
18 be filed directly with the Court or through Chevron's Human
19 Resources Manager in Bakersfield, California, who shall
20 forward any such claim(s) to the Court. Notice of any such
21 claim(s) shall be given promptly to plaintiffs' counsel, and
22 plaintiffs shall be afforded a full opportunity to respond
23 to such claims.

24 F. This Decree shall terminate five years from
25 its effective date, and shall not be extended provided that:
26 the term of the Decree may be extended for a period not to
27 exceed two additional years if the Court finds that Chevron
28 has not exercised good faith efforts in the preceding year

1 to meet the goals established herein. The Court shall
2 retain jurisdiction after the fifth year, for the sole
3 purposes of hearing and deciding a motion to extend the term
4 of the Decree based on an alleged failure to exercise good
5 faith efforts in the fifth year, and/or to adjust any
6 unresolved claims filed pursuant to paragraph IX.E.

7 G. Chevron shall have the right to terminate
8 Section VII of this Decree, and all obligations thereunder,
9 on or before November 16, 1990. In the event of such a
10 termination of Section VII, this Decree shall remain in
11 force in all other respects and shall fully and finally
12 resolve all claims pursuant to Section II.B. hereof with the
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1 exception of compensatory damages claims for emotional
2 distress based on alleged discriminatory denial of promotion
3 and/or hostile work environment, which shall proceed as a
4 Rule 23(b)(3) action in this Court.

5 Dated: May 13, 1990.

Dated: May 14, 1990.

6 HENRY HEWITT
7 JOHN ERICKSON
8 ERICKSON, BEASLEY & HEWITT
12 Geary Street, 8th Floor
San Francisco, CA 94108

JOHN PHILLIPS
HALL & PHILLIPS
10951 W. Pico Boulevard
Los Angeles, CA 90064

9
10 By Henry Hewitt
11 Attorneys for Plaintiffs

By John Phillips
Attorneys for Plaintiffs

12 Dated: May 14, 1990.

Dated: May 14, 1990.

13 BILL LANN LEE
14 PATRICK O. PATTERSON
15 NAACP LEGAL DEFENSE FUND
Suite 208
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ANTONIA HERNANDEZ
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16
17
18
19 By Bill Lee
20 Attorneys for Plaintiffs

By E. Richard Larson
Attorneys for Plaintiffs

21 Dated: _____, 1990.

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