

February 23, 2023

VIA E-MAIL

Julia Reinhart
Senior Vice President and Chief Human Resources Officer
Valero
One Valero Way
San Antonio, TX 78249

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Re: Racial Equity Assessment

Dear Ms. Reinhart:

Valero Energy Corporation (“Valero” or the “Company”) retained me to perform an assessment that addresses whether current programs, policies, and recent reports undertaken by the Company align with the factors that are considered in a racial equity audit. As set forth below, I find the Company’s existing reports and analyses substantially align with the factors that would be considered during a racial equity audit.

My relevant biographical information is below.



Nadira Clarke is a litigation partner in the law firm of Baker Botts LLP. One of her key areas of practice is Environmental Justice. Previously, Nadira served in the U.S. Department of Justice, Environment & Natural Resources where, following the issuance of Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” she and a team were appointed by the Assistant Attorney Generals for the Environment & Natural Resources Division and the Civil Rights Division to implement EJ policies and procedures department wide. Also, during her time at the Department of Justice, Nadira negotiated a historic EJ settlement with the NAACP Legal Defense in a case involving allegations of environmental injustice and violations of Title VI of the Civil Rights Act in connection with the reconstruction of a collapsed portion of Interstate 880 in Oakland, California following the Loma Prieta earthquake of 1989. As an Assistant United States Attorney in the District of Maryland, Nadira litigated numerous employment discrimination cases filed under Title VII of the Civil Rights Act. Currently in private practice, she litigates EJ cases and routinely counsels clients in connection with the development and implementation of robust programs arising out U.S. EPA Environmental Justice and Civil Rights Division to address the concerns of EJ stakeholder communities, as well as ESG. She also has expertise in corporate governance and compliance and has performed compliance assessments in connection with multiple corporate monitorships, including a Diversity Equity & Inclusion (DEI) review.

Valero Background

Valero Energy Corporation is a multinational manufacturer and marketer of petroleum-based and low-carbon liquid transportation fuels and petrochemical products. The company is the largest independent petroleum refiner in the world, the world's largest producer of renewable diesel, and the world's second largest ethanol producer. Headquartered in San Antonio, Texas, it operates 15 refineries in the United States, Canada, and the United Kingdom, 12 ethanol plants and 2 renewable diesel plants in the United States, and it has approximately 10,000 employees.

Valero presents as a company guided by five core principles, which differentiate the company: Environment, Community, Employees, Safety, and Governance. The Company embraces its employees as its greatest asset and an essential part of its competitive advantage.¹ Its commitments to diversity, equity, and inclusion, and to providing a safe, healthy, and rewarding work environment are described not only as values of the Company, but also as a means of valuing and caring for its people.

Shareholder Value and Racial Equity

Valero's imperative is to provide long-term value to its shareholders. It seeks to do so, in part, by providing a "best-in-class, inclusive work environment," as well as through commitments to protecting the environment, safety, and communities surrounding its facilities.² This is consistent with a growing body of research showing the positive impact diversity, equity, and inclusion can have on a company. For example, more diverse boards of directors tend to fulfill monitoring and strategy involvement responsibilities more often, and this increased oversight is associated with higher accounting returns.³ Valero's Board is one of the most diverse in the industry, as 7 out of 12 of its members are female or members of a racial or ethnic minority. Increased diversity also helps eliminate the groupthink and affinity bias that can cause compliance risks to be overlooked, instead boosting creativity and deep thinking. A critical risk of a non-inclusive culture is less willingness by employees to speak up, resulting in instances where vital information does not reach senior management. Allegations and instances of inequitable racial conduct can also have legal and reputational consequences, including lost productivity, higher turnover, and expensive lawsuits.

Environmental justice is critically tied to the topic of racial equity, and Valero's actions in furtherance of EJ add additional depth to the Company's broader work on diversity, equity, and inclusion. Environment Justice is "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies"⁴—practices that disproportionately

¹ Valero, Environmental, Safety, and Governance Report (Aug. 2022), 8 [hereinafter "ESG Report"].

² ESG Report, 11.

³ See, e.g., Russell Reynolds Associates, *Different Is Better: Why Diversity Matters in the Boardroom*, 12 (2009) <https://silo.tips/download/interviews-andfindings-from-industry-leaders> ("The benefits of having a diverse board can be particularly powerful when there is a critical mass of varied perspectives to support broad thinking.").

⁴ U.S. Environmental Protection Agency, Learn About Environmental Justice <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice> (last visited Feb. 13, 2023).

impact communities of color and low-income communities. These practices can also drive a wedge between a company and its community and create business obstacles, such as barriers to permitting.

At both the state and federal levels, regulators and even courts increasingly consider racial equity and environmental justice when reviewing permitting applications. EPA announced in January 2022 a series of steps “to deliver environmental justice” as “part of the Biden-Harris Administration’s whole-of-government approach to addressing these issues in communities that are marginalized, underserved, and overburdened by pollution.”⁵ This came following a “Journey to Justice Tour” by EPA Administrator Michael S. Regan—a tour that cited EPA environmental justice actions, including as part of permitting decisions.⁶ In May 2022, EPA published *EPA Legal Tools to Advance Environmental Justice*, a review of legal authorities “that inform the Agency’s efforts to advance environmental justice and equity,” devoting 14 pages to ways in which EPA can advance environmental justice through permitting.⁷ In September 2022, EPA established its Office of Environmental Justice and External Civil Rights, dedicating 200 employees to prioritize environmental justice in [the Biden administration’s] policymaking.”⁸ And in December 2022, EPA issued *EJ in Air Permitting: Principles for Addressing Environmental Justice Concerns in Air Permitting*, which is guidance designed to “provide a framework of principles and practices to assist each EPA region to promote environmental justice and equity through air permitting programs using existing [Clean Air Act] authorities and discretion, federal civil rights laws, as well as other federal and state laws that may help mitigate potential adverse and disproportionate effects of a permitting action.”⁹ In Texas, home to more Valero facilities than any other state, the Texas Commission on Environmental Quality (TCEQ) requires that permit applicants complete a “public involvement plan” that includes detailed demographic information for individuals in the specified location, and that applicants include a plan for public outreach and engagement.¹⁰ TCEQ also permits affected local persons to request a contested case hearing to oppose a contested permit.

Recent court decisions have also considered whether state agencies have properly weighed environmental justice and civil rights issues in permitting decisions. For example, in September 2022, a Louisiana court revoked air permits issued by the Louisiana Department of Environmental Quality for a Formosa Plastics facility in part because the state issuing agency did not adequately consider the

⁵ Press Release, U.S. Environmental Protection Agency, EPA Administrator Regan Announces Bold Actions to Protect Communities Following the Journey to Justice Tour (Jan. 26, 2022) <https://www.epa.gov/newsreleases/epa-administrator-regan-announces-bold-actions-protect-communities-following-journey>.

⁶ *Id.*

⁷ U.S. Environmental Protection Agency, *EPA Legal Tools to Advance Environmental Justice*, 38–51 (May 2022) <https://www.epa.gov/system/files/documents/2022-05/EJ%20Legal%20Tools%20May%202022%20FINAL.pdf>.

⁸ Valerie Volcovici, *U.S. EPA Launches Environmental Justice Office*, REUTERS (Sept. 26, 2022) <https://www.reuters.com/business/environment/us-epa-launches-environmental-justice-office-2022-09-25/>.

⁹ U.S. Environmental Protection Agency, *EJ in Air Permitting: Principles for Addressing Environmental Justice Concerns in Air Permitting* (Dec. 2022) <https://www.epa.gov/system/files/documents/2022-12/Attachment%20-%20EJ%20in%20Air%20Permitting%20Principles%20.pdf>.

¹⁰ TCEQ, Public Involvement Plan Form for Permit and Registration Applications, <https://www.tceq.texas.gov/downloads/agency/decisions/hearings/environmental-equity/pip-form-tceq-20960.pdf>

environmental cost and impact of the additional emissions on the 99% minority community.¹¹ Similarly, since 2020, two Virginia permits for compressor stations have been rejected on “environmental justice” grounds. First, the U.S. Court of Appeals for the Fourth Circuit overturned a Virginia Air Pollution Control Board decision granting a permit for failing to assess the proposed compressor station’s disproportionate health impacts on a historically African-American neighborhood.¹² The court ruled that “the Board was required to consider EJ” in the permit approval process as well as the character of the local population and that it had not done so.¹³ Following this, the Commonwealth’s Air Pollution Control Board rejected another compressor permit application after determining “that the fair treatment requirements of the Virginia Environmental Justice Act have not been met.”¹⁴

There is no single, prevailing standard for assessing a corporation’s commitment to racial equity, including environmental justice. But proxy voting guidelines issued by the two most well-known proxy advisers, Institutional Shareholder Services (ISS) and Glass Lewis, are useful references for determining whether such an assessment has occurred. Both sets of guidelines recognize the importance of racial equity for protecting shareholder value under current regulatory and market conditions, and they include factors for racial equity assessments. We have distilled these factors below, along with our assessment of documents and information provided by Valero and available publicly. Notable materials we reviewed include the Company’s 2023 Environmental Justice Audit Report (EJ Audit), its most recent (2022) Environment, Social, and Governance Report (ESG Report), its Code of Business Conduct & Ethics, its Employee Guide, and other public governance policies. Our assessment of Valero data relevant to typical racial equity audit factors is below.

1. Established process for addressing racial inequity and discrimination internally

Valero has established a robust set of internal processes for addressing racial inequity and discrimination, consistent with anti-discrimination practices documented in similar racial justice audits.¹⁵ Valero’s process is extensive, and we do not restate it here in its entirety. Instead, we focus on certain key aspects of the process.

¹¹ *RISE St. James v. Louisiana Dept. of Environ. Quality*, No. 694,029 (La. 2022).

¹² *Friends of Buckingham v. State Air Pollution Control Board*, 947 F.3d 68, 88 (4th Cir. 2020) (overturning the decision to grant a permit under the Natural Gas Act, 15 U.S.C. § 717r(d)(1)).

¹³ *Id.* at 87.

¹⁴ *In re Mountain Valley Pipeline, LLC Lambert Compressor Station (MVP)*, Registration No. 21652 (Dec. 3, 2021).

¹⁵ Anti-discrimination practices noted in similar racial justice audits have included the development of anti-discrimination trainings for employees, the implementation of diverse teams and recruitment, and the creation of new anti-discrimination policies aimed to promote diversity and fight discrimination. See Laura Murphy, *Airbnb’s Work to Fight Discrimination and Build Inclusion*, 20, 24, 27 (Sept. 8, 2016) https://blog.atairbnb.com/wp-content/uploads/2016/09/REPORT_Airbnbs-Work-to-Fight-Discrimination-and-Build-Inclusion.pdf (Airbnb’s Racial Justice Report highlighted Airbnb’s implementation of an anti-bias training, a full-time team of engineers, data scientists, researchers, and designers to perform tests with social science experts and examine algorithms to combat biases, and the

Valero's process for avoiding racial inequity and discrimination begins with its strategy for cultivating a strong and diverse team of qualified contributors. This strategy is detailed in the Company's Equal Opportunity, Affirmative Action, and Diversity and Inclusion policy and its Diversity and Inclusion Commitment statement—both of which are published in its Employee Guide, its Human Rights Policy Statement,¹⁶ and its Code of Business Conduct and Ethics, and is generally demonstrated in its employee progression and retention rate.¹⁷ As further detailed below, one example is its internship program, which begins at the high school level, drawing from inner-city and low socioeconomic school districts. Other examples include immersion and scholarship programs for engineering college-level students, all designed to develop Valero's minority talent pipeline.

Valero's process includes training for hiring managers and recruiting teams, designed to minimize unconscious bias from the interview process. This training is given to any employee in a hiring role and within the first month of the start of a candidate search, and it must be periodically retaken if the employee remains in a hiring role. In hiring operators (highly trained positions with substantial opportunity for growth), Valero uses two initial tests to evaluate qualifications, both of which have been validated under the Uniform Guidelines on Employee Selection Procedures or "UGESP" under Title VII. *See* 29 C.F.R. Part 1607.¹⁸ The Company then implements an additional control for bias, through a blind resume review wherein the applicant's name, address, and other personal identifiers are removed before the interview team reviews a resume. At the interview, the interviewing panels reflect the diversity of Valero's workforce, and each interview uses a standard set of questions.

Once hired, every new hire participates in a New Employee Integration program, which provides education about Valero's cultural values, including its commitment to an inclusive work environment. Every two or three years, depending on the state, all employees receive anti-harassment

development of a new non-discrimination policy for users to follow); *see also* Covington, *A Report to Starbucks: On the Progress of its Efforts to Promote Civil Rights, Equity, Diversity, and Inclusion*, 19 (Feb. 24, 2020)

<https://stories.starbucks.com/uploads/2020/02/Starbucks-Civil-Rights-Assessment-2020-Update.pdf> (Starbucks's report highlighted Starbucks commitment for all senior positions and recruiters to participate in anti-bias trainings, hiring a new diversity and inclusion officer to oversee diversity initiatives throughout the company, and the creation of a new code of conduct to raise awareness about the company's anti-discrimination policy); *see also* Facebook's *Civil Rights Audit—Final Report*, 14-15 (July 8, 2020) <https://about.fb.com/wp-content/uploads/2020/07/Civil-Rights-Audit-Final-Report.pdf> (highlighting the implementation of civil rights training for employees and a new senior vice president of civil rights leadership role to oversee the company's civil rights accountability efforts, such as developing systems to "improve the company's ability to spot and address potential civil rights implications in products and policies before they launch").

¹⁶ Valero's Human Rights Policy Statement is also a stand-alone governance policy published on the Company's website. *See* Valero, ESG, <https://investorvalero.com/esg/default.aspx#corporate-governance> (last visited Feb. 13, 2023).

¹⁷ For example, in 2022, its retention rate of mothers returning to work was 88%. In addition, over 50% of employees have more than 10 years of service. ESG Report, 79.

¹⁸ "Test validation" refers to the UGESP guidance, and specifically the three ways under those guidelines that employers can show that their employment tests, and other selection criteria, are job-related and consistent with business necessity. *See* U.S. Equal Employment Opportunity Commission (EEOC), *Employment Tests and Selection Procedures* <https://www.eeoc.gov/laws/guidance/employment-tests-and-selection-procedures#fn1> (last visited Feb. 13, 2023).

training. This includes executives, who receive training tailored for their specific roles. Within six months of promotion to a supervisory role—meaning a role in which an employee is managing or supervising another employee—supervisors attend a multiday training, which includes classes on workplace harassment, discrimination, and the supervisor’s role in creating an inclusive workplace. Every quarter, supervisors receive additional “Frontline” training that reinforces the initial supervisor training and further emphasizes diversity and demonstrating inclusive leadership in the workplace.

Valero ensures compliance with its processes for addressing racial inequity and discrimination through several innovative means of reporting and addressing allegations of improper conduct. At each refinery, Valero recruited local employees to serve as Diversity Ambassadors and advocates of diversity, equity, and inclusion (DEI) principles.¹⁹ In addition, employees can use a confidential 24-hour ethics helpline that permits anonymous tips, or they can raise an issue to their supervisor, who will then follow an established reporting chain. Claims are then investigated by Human Resources and/or the Legal Department. Valero also offers an innovative four-step Dialogue Dispute Resolution Program (DDRP). The DDRP involves informally working through workplace complaints with management or a Dialogue Advisor, or the more formal steps of outside mediation and arbitration. The costs of these formal steps are nearly all paid for by Valero. The DDRP also offers an employee \$1,000 annually (paid by Valero) to consult with their own outside counsel to evaluate the viability of a potential claim. These mechanisms of reporting and resolving workplace issues are made known to employees in the Company’s Employee Guide and on the Company’s intranet system.

2. Public disclosure of workforce diversity and inclusion metrics and goals

Valero shares meaningful and detailed metrics and goals related to the Company’s workforce diversity and inclusion. For the past three years, Valero has publicly disclosed its EEO-1 report—containing a racial and gender breakdown by job category—including as part of its most recent environmental, social, and governance (ESG) report.²⁰ The ESG report also devotes a full section to workforce diversity and inclusion metrics and goals.²¹ It includes information beyond that disclosed in the EEO-1 report relevant to the Company’s prioritization of diversifying its workforce, efforts to develop a minority talent pipeline,²² initiatives to recruit local talent through partnerships with local colleges serving refinery neighboring communities,²³ and improved female representation among the Company’s executives, leaders, and engineers.²⁴ The ESG report also includes information as to the diversity of the board of directors, more than half of whose members are women or belong to a racial

¹⁹ Montrose Environmental, *Audit of Valero’s Environmental Justice Commitments and Actions—Final Report*, 20-21 (Jan. 2023) [hereinafter EJ Audit].

²⁰ ESG Report, 110.

²¹ ESG Report, 77-95.

²² ESG Report, 85.

²³ ESG Report, 83.

²⁴ ESG Report, 93.

or ethnic minority.²⁵ Notably, the Board's Nominating and Corporate Governance Committee added the "Rooney Rule" to its charter, requiring that the initial list of candidates from which director nominees are chosen must include, but need not be limited to, qualified diverse candidates. In addition, the Board approved a policy providing that, when executive officers of Valero are recruited from outside the Company, the initial list of candidates will include qualified gender and diverse candidates among the candidates presented.²⁶

The most recent diversity and inclusion information provided by Valero includes additional impressive data regarding the Company's workforce diversity and inclusion metrics and goals. Valero reports a 37% minority workforce. In 2022, 42% of employees hired were racially or ethnically diverse. Valero data also shows substantial minority and female representation in its intern program, both at 43%. 39% of engineering interns were women, whereas the percentage of U.S. women engineering graduates in 2021 was 21%.

3. Public statements regarding racial justice

Valero has issued numerous public statements regarding its commitment to racial justice. Examples from its website and reports include:

- Environmental Justice: "We work to ensure our neighbors have an opportunity to understand our proposed activities and to provide them with a meaningful opportunity to have their concerns heard, with the goal of providing them with greater comfort in our operations."²⁷

"We believe social equity and inclusion are integral parts of a healthy community, which is why we collaborate with stakeholders to understand social, economic, and environmental factors of importance to each community."²⁸
- ESG: "Valero is a good neighbor and employer. We share our success with the communities where we work and live through volunteerism and charitable giving."²⁹

²⁵ ESG Report, 99. We understand that, as of this letter, 7 out of 12 board members represent diversity of gender or race and ethnicity. Additional research supports the role of board diversity in improving compliance outcomes. *See, e.g.,* Russell Reynolds Associates, *Different Is Better: Why Diversity Matters in the Boardroom*, 12 (2009) <https://silo.tips/download/interviews-andfindings-from-industry-leaders> ("The benefits of having a diverse board can be particularly powerful when there is a critical mass of varied perspectives to support broad thinking.").

²⁶ U.S. Securities and Exchange Commission, Definitive Proxy Statement, Valero Energy Corporation (2022), https://s23.q4cdn.com/587626645/files/doc_downloads/2022/03/Proxy-Statement-2022.pdf

²⁷ Valero, Environmental Justice Policy Statement (Sept. 1, 2021) https://s23.q4cdn.com/587626645/files/doc_downloads/2021/09/Environmental-Justice-Policy-Statement.pdf.

²⁸ ESG Report, 58.

²⁹ Valero, ESG Overview, <https://www.valero.com/responsibility/esg-environmental-social-governance> (last visited Feb. 13, 2023).

“Valero strives to operate as a good neighbor, and looks for opportunities to work with local officials and directly with fence-line neighbors to improve the quality of life for neighbors and communities. Valero aims to treat its fence-line neighbors fairly, regardless of race, color, national origin, culture or income.”³⁰

- Diversity, Equity, and Inclusion: “Now more than ever, Valero recognizes the value and benefits of a **diverse workforce** and the impact that comes from truly inclusive teams. **It is more than doing the right thing.** We embrace the **opportunity to educate ourselves** in ways that correct bias and inequality where it exists, and ensure that we **lead, cultivate and develop talent inclusively.**”³¹

“Diversity, Equity, and Inclusion is not a standalone activity or program at Valero. It is embedded in our cultural values. It is integrated into every process and mechanism that impacts our recruitment activities and our employees.”³²

The Environmental Justice Policy Statement is published on Valero’s website as a Governance Policy.³³

Finally, as stated in its Code of Business Conduct and Ethics, and the Human Rights Policy Statement, Valero has committed itself to “recogniz[ing] the dignity, value and worth of all human beings around the world.”³⁴ This commitment appears to be the underpinning for the diversity, equity, inclusion and environmental justice work that the Company undertakes.

4. Engagement with impacted communities, stakeholders, and civil rights experts

Valero’s environmental justice audit includes numerous examples of the Company’s community engagement.

Valero was the first major energy company to adopt a formal Environmental Justice policy in 2009.³⁵ All Valero refineries have a public affairs liaison responsible for engagement with the local community.³⁶ These public affairs liaisons are responsible for direct engagement with community members, such as by attending local civic or community group meetings to discuss refinery

³⁰ Valero, Environmental Justice Policy Statement (Sept. 1, 2021) https://s23.q4cdn.com/587626645/files/doc_downloads/2021/09/Environmental-Justice-Policy-Statement.pdf.

³¹ Valero, Diversity Equity & Inclusion, <https://www.valero.com/careers/working-valero/diversity-inclusion> (last visited Feb. 13, 2023) (original emphasis).

³² ESG Report, 82.

³³ Valero, ESG, <https://investorvalero.com/esg/default.aspx#corporate-governance> (last visited Feb. 13, 2023).

³⁴ Valero, Code of Business Conduct & Ethics, 13, <https://www.valero.com/sites/default/files/valero-documents/Valero%20Code%20of%20Business%20Conduct%20%26%20Ethics-EN.pdf>.

³⁵ EJ Audit, 6.

³⁶ EJ Audit, 35.

activities.³⁷ Out of Valero's 13 U.S. refineries, 11 also have Community Advisory Panels that meet regularly and are comprised of stakeholders from fence-line communities.³⁸

Valero has also developed relationships with organizations and agencies serving fence-line communities, such as by donating funding and volunteer hours towards the development of a microfarm by partnering with the City of Memphis and a local nonprofit;³⁹ supporting the renovation of a Houston city park neighboring the Valero Houston refinery;⁴⁰ supporting the ESP Education and Leadership Institute's "BOSS" program in Wilmington, California, which prepares young student-athletes, primarily of color, to become future leaders by offering year-round academic coaching, mentoring, and real-world experiences;⁴¹ committing funds to support the building of a Community College campus in St. Charles, Louisiana that provides workforce training; contributing to the Girl Scouts of Southwest Texas' Girl Genius program, which provides a safe environment for academic tutoring, homework assistance, physical activities, and meals, at no cost to the majority Hispanic program participants;⁴² and donating almost \$900,000 to medical services investments in Port Arthur.

As part of its environmental justice audit process, the Company took the unusual step of commissioning a third party to conduct six community surveys of respondents living near to Valero refineries on issues relating to the facilities.⁴³ Only 27% believed environmental racism was an issue in their communities, 59% had a favorable impression of Valero as a company, and, of those expressing an opinion (excluding unsure or no opinion respondents), 80% had a favorable impression of Valero.⁴⁴ Community survey respondents expressed general concern about pollutants in the air and water, but also recognized the importance of oil and gas companies to the local economy.⁴⁵ To measure the impact of pollution on the local communities, the audit used environmental justice screening tools created by the EPA and by California.⁴⁶ The results are provided in an appendix to the audit.⁴⁷ And the Company's ESG Report includes information on at least ten ongoing pollution reduction initiatives.⁴⁸

³⁷ EJ Audit, 35.

³⁸ EJ Audit, 28.

³⁹ EJ Audit, 35.

⁴⁰ ESG Report, 58–59.

⁴¹ ESG Report, 59; *See also* Education & Leadership Institute, BOSS Program – Business of Student Success Program, bossprograms.org (last visited Feb. 13, 2023).

⁴² ESG Report, 65.

⁴³ EJ Audit, 16.

⁴⁴ EJ Audit, 36.

⁴⁵ EJ Audit, 36.

⁴⁶ EJ Audit, 9, 10.

⁴⁷ EJ Audit, Appendix A.

⁴⁸ ESG Report, 26.

Additionally, at nine Valero refineries, a third party conducted virtual or telephonic interviews with neighboring community leaders and organizations, seeking feedback and recommendations on how Valero could strengthen its relationships with the local community.⁴⁹ This effort included engagement with local civil rights leaders and environmental and conservation advocates.⁵⁰ This aligns with EPA guidance on community outreach by permit applicants.⁵¹ And the feedback, again, was largely positive, with Valero being called a “great community partner,” and a “true partner,” and complemented on doing “a good job of connecting with community.”⁵²

5. Recent racial justice measures

In recent years, the Company has implemented racial justice measures internally and externally, such as the below examples.

At each refinery, Valero recruited local employees to serve as Diversity Ambassadors and advocates of diversity, equity, and inclusion (DEI) principles—both internally and as community resources.⁵³ As advocates, these ambassadors elevate DEI awareness among their colleagues, promote DEI-related events, and foster inclusivity in the workplace.⁵⁴

In 2021, Valero hosted its inaugural Minority Engineering Summit (MES), a four-day immersion program held at Valero headquarters to increase the Company’s talent pipeline of minority engineering students and introduce students to Valero and the energy industry.⁵⁵ The National Association of Colleges and Employers recognized MES as a DEI program of excellence.⁵⁶ In 2021, 11 high-performing first-year minority students from engineering schools around the country were selected to participate in MES, and 7 of them accepted offers to join Valero’s 2022 intern class.⁵⁷

For high-school-level students, the Company created the “We Are Leaders” internship program to give students from inner-city and low socioeconomic school districts exposure to work in

⁴⁹ EJ Audit, 37.

⁵⁰ EJ Audit, 37.

⁵¹ Environmental Protection Agency, *EPA Activities To Promote Environmental Justice in the Permit Application Process*, FEDERAL REGISTER (May 9, 2013) <https://www.federalregister.gov/documents/2013/05/09/2013-10945/epa-activities-to-promote-environmental-justice-in-the-permit-application-process#:~:text=More%20transparency%20and%20dialogue%20can%20to%20lead%20to,outcomes%20for%20communities%20as%20well%20as%20permit%20applicants.>

⁵² EJ Audit, 37.

⁵³ EJ Audit, 20–21.

⁵⁴ EJ Audit, 21.

⁵⁵ ESG Report, 85.

⁵⁶ ESG Report, 85.

⁵⁷ ESG Report, 85.

the corporate or refinery environment, while gaining a real-world, marketable skill, earning a salary.⁵⁸ Less formally, Valero hosts students from these districts for visits at various Company sites to learn about the energy industry and Valero's culture.⁵⁹

With its headquarters in San Antonio, Valero has directed nearly \$1.4 million since 2006 to AVANCE (a non-profit supporter of education for Latino families) to further its mission of supporting economic mobility for Latino families through education and building financial capability.⁶⁰

Between 2017 and 2021, Valero invested more than \$7.4 million in support of women and minority student groups and engineering schools.⁶¹ The Company also funds scholarships, including an \$8.4 million, five-year scholarship to the San Antonio Independent School District for its "Pipeline for College Success" program, which provides college advisors to students throughout their college years.⁶²

In January 2021, Valero, along with Bank of America, sponsored the documentary *Living in My Skin*, sharing the stories of thirty-three Black men living in San Antonio, Texas, in an effort to "create a deeper understanding of race relations . . . and a deeper cultural understanding of each other's lives and feelings."⁶³ The Executive Producer is a Valero employee.

6. Recent accusations, controversy, litigation, or regulatory actions relating to racial inequity or discrimination

Valero reported that employee claims of racial discrimination against the Company are relatively infrequent. In the last decade, on average, fewer than 0.04% of total Valero employees⁶⁴ have made claims (EEOC claims filed in court) per year. Notably, no court proceeding or arbitration involving those matters has resulted in an adverse finding against the Company. A search in legal databases for racial discrimination cases against Valero for the time period from 1995 to the present likewise revealed no adverse findings against the Company. Valero attributes its record in this area to its commitment to treat people with respect.

⁵⁸ Valero, Investing in Our Diversity, <https://www.valero.com/careers/working-valero/diversity-inclusion/diversity-stories> (last visited Feb. 13, 2023).

⁵⁹ Valero, Investing in Our Diversity, <https://www.valero.com/careers/working-valero/diversity-inclusion/diversity-stories> (last visited Feb. 13, 2023).

⁶⁰ ESG Report, 65; Avance Latino, Our Story, <https://avancelatino.org/about> (last visited Feb. 13, 2023).

⁶¹ ESG Report, 85.

⁶² Valero, Investing in Our Diversity, <https://www.valero.com/careers/working-valero/diversity-inclusion/diversity-stories> (last visited Feb. 13, 2023).

⁶³ Ian Cruz, *Local documentary features stories of Black Men in San Antonio*, KLRN (Jan. 22, 2021) <https://www.klrn.org/blogs/station-news/local-documentary-features-stories-of-black-men-in-san-antonio/>.

⁶⁴ Total workforce is reported at nearly 10,000 employees. Form 10-K for the year ended December 31, 2021.

The Company has faced two notable racial issues over the past seven years, both of which were resolved.

First, in 2020, Valero Refining – New Orleans, L.L.C., a Valero subsidiary in New Orleans, entered into a conciliatory agreement with the Department of Labor’s Office of Federal Contract Compliance Program (“OFCCP”), to resolve allegations of discrimination in 2014 against Black, Hispanic, Asian, and Indian American applicants in its candidate selection process for “Operator Trainee” applicants.⁶⁵ As part of the agreement, Valero arranged to provide up to seven Operator Trainee job opportunities to Black, Hispanic, Asian, and Indian American applicants when the positions became available as well as \$362,500 in back wages and interest to allegedly affected class members, and to observe record-keeping and internal audit procedures.⁶⁶ We understand Valero has fulfilled these obligations.

Second, in April 2021, Valero partnered with the Plains All American Pipeline (“Plains”) to form the Byhalia Connection Pipeline, to enhance crude oil movements, starting from the Valero Memphis Refinery, traveling about ten miles south to the Mississippi state line, and then due west to the Valero Collierville terminal in Marshall County, Mississippi.⁶⁷ An opposition group formed called the “Memphis Community Against the Pipeline,” and it led protests and marches, proclaiming that the pipeline contributed to environmental racism as it was set to run through predominantly Black neighborhoods in South Memphis, Tennessee.⁶⁸ The Memphis Community Against the Pipeline protested that the pipeline would heighten pollution in Black neighborhoods in South Memphis.⁶⁹ But Valero had a limited role in the construction of the pipeline, and was not in charge of operational or development functions, such as community outreach, permitting, and right-of-way-acquisition. The pipeline was discontinued in July 2021.

There has also been negative press regarding the Company’s political activities. In 2019, the Company and several of its peers received criticism for joining in the American Fuel and Petrochemical Manufacturers’ (AFPM) efforts to criminalize trespass on public land used for “critical infrastructure,” in response to protests over the Dakota Access pipeline.⁷⁰ The Company was

⁶⁵ Conciliation Agreement Between the U.S. Department of Labor Office of Federal Contract Compliance Programs and Valero Refining – New Orleans, L.L.C. and Valero Services, Inc., (March 25, 2020) <https://www.dol.gov/sites/dolgov/files/ofccp/foia/files/2020-03-25Valero-CA-SW-Redacted.pdf>.

⁶⁶ *Id.* at 5. (Valero did not admit liability and at the end of the five-year time frame when the matter was settled, there were no adjudicated findings of discrimination); see News Release, U.S. Department of Labor, Government Contractor Pays \$362,500 in Back Interest to Settle Hiring Discrimination Allegations after U.S. Department of Labor Investigation, (April 13, 2020), <https://www.dol.gov/newsroom/releases/ofccp/ofccp20200413>.

⁶⁷ Lynn Norment, *Memphis Oil Pipeline Brings Environmental Racism to the Forefront*, THE TENNESSEE TRIBUNE (April 29, 2021) <https://tntribune.com/memphis-oil-pipeline-brings-environmental-racism-to-the-forefront/>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Lee Fang, *OIL LOBBYIST TOUTS SUCCESS IN EFFORT TO CRIMINALIZE PIPELINE PROTESTS, LEAKED RECORDING SHOWS*, THE INTERCEPT (Aug. 19, 2019) <https://theintercept.com/2019/08/19/oil-lobby-pipeline-protests/>.

referenced as having believed the bill would “help deter vandalism & disruptive actions.”⁷¹ Valero is also one of the roughly 280 Fortune 500 companies to receive negative attention for making political contributions to members of Congress who objected to certifying the results of the 2020 election.⁷² But Valero’s political activity appears to center around issues that affect its business and the energy industry.⁷³ And the Company’s lobbying efforts and political contributions are consistent with other industry participants, including other Oil & Gas companies and industry trade associations and do not appear to be racially motivated.⁷⁴

Conclusion

The above record shows Valero’s existing reports and audit address the factors that would be considered in a racial equity audit.

Respectfully,



Nadira Clarke

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⁷¹ *Id.*

⁷² Sergio Hernandez and Tal Yellin, *Tracking Corporate America’s revolt against the Electoral College objectors*, CNN (Feb. 5, 2021) <https://www.cnn.com/interactive/2021/01/business/corporate-pac-suspensions/>.

⁷³ Valero, Policy Advocacy, <https://esg.investorvalero.com/policy-advocacy/> (last visited Feb. 13, 2023).

⁷⁴ See Sergio Hernandez and Tal Yellin, *Tracking Corporate America’s revolt against the Electoral College objectors*, CNN (Feb. 5, 2021) <https://www.cnn.com/interactive/2021/01/business/corporate-pac-suspensions/>; see also Jennifer A. Dlouhy, *Oil Companies Persuade States to Make Pipeline Protests a Felony*, BLOOMBERG LAW (Aug. 19, 2019) <https://news.bloomberglaw.com/environment-and-energy/oil-companies-persuade-states-to-make-pipeline-protests-a-felony>.