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Attorneys for Defendant
CHEVRON CORPORATION

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 THE PEOPLE OF THE STATE OF CALIFORNIA,
acting by and through Oakland City Attorney
19 BARBARA J. PARKER,

20 Plaintiff and Real Party in Interest,

21 v.

22 BP P.L.C., a public limited company of England and
Wales, CHEVRON CORPORATION, a Delaware
corporation, CONOCOPHILLIPS COMPANY, a
23 Delaware corporation, EXXON MOBIL
CORPORATION, a New Jersey corporation,
24 ROYAL DUTCH SHELL PLC, a public limited
company of England and Wales, and DOES 1
through 10,

25 Defendants.

26 THE PEOPLE OF THE STATE OF CALIFORNIA,
acting by and through the San Francisco City
27 Attorney DENNIS J. HERRERA,

28 Plaintiff and Real Party in Interest,

First Filed Case: No. 3:17-cv-6011-WHA
Related Case: No. 3:17-cv-6012-WHA

THE HONORABLE WILLIAM H. ALSUP

**JOINT CASE MANAGEMENT
STATEMENT AND RULE 26(F) REPORT**

Case No. 3:17-cv-6012-WHA

THE HONORABLE WILLIAM H. ALSUP

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v.
BP P.L.C., a public limited company of England and Wales, CHEVRON CORPORATION, a Delaware corporation, CONOCOPHILLIPS COMPANY, a Delaware corporation, EXXON MOBIL CORPORATION, a New Jersey corporation, ROYAL DUTCH SHELL PLC, a public limited company of England and Wales, and DOES 1 through 10,
Defendants.

JOINT CASE MANAGEMENT STATEMENT AND RULE 26(F) REPORT

1 Counsel for the People of the State of California, by and through San Francisco City Attorney
2 Dennis J. Herrera and Oakland City Attorney Barbara J. Parker (“Plaintiffs”), and for BP P.L.C.
3 (“BP”), Chevron Corporation (“Chevron”), ConocoPhillips Company (“ConocoPhillips”), Exxon
4 Mobil Corporation (“ExxonMobil”), and Royal Dutch Shell (“Shell”) (collectively, “Defendants”)
5 (all together, the “Parties”), met and conferred by telephone on January 18, 2018 to discuss pre-trial
6 matters, including discovery and alternative dispute resolution (“ADR”). Pursuant to the Federal Rules
7 of Civil Procedure, this Court’s Civil Local Rules and ADR Local Rules, the Standing Order for
8 All Judges of the Northern District of California, the Supplemental Order to Order Setting Initial Case
9 Management Conference in Civil Cases Before Judge William Alsup, and this Court’s Orders setting
10 the Initial Case Management Conference for February 8, 2018, the Parties respectfully submit this
11 Joint Case Management Statement and [Proposed] Order, and Rule 26(f) Report.¹

12 **1. JURISDICTION AND SERVICE**

13 **A. *Joint Statement:*** Plaintiffs filed these actions in California Superior Court in Oakland
14 and San Francisco, respectively, purporting to assert claims under California state law. Defendants
15 removed both actions to this District. Plaintiffs moved to remand and Defendants opposed. Oral
16 argument on Plaintiffs’ remand motion is scheduled before this Court on February 8, 2018.

17 **B. *Plaintiffs’ Statement:*** Prior to removal, all Defendants were properly served in both
18 actions. This District is a proper federal venue for these removed actions, and personal jurisdiction
19 over all Defendants is proper. However, as explained in their pending motion to remand, Plaintiffs
20 contend that this Court lacks subject matter jurisdiction over these actions.

21 **C. *Defendants’ Statement:*** Plaintiffs’ complaints raise federal law claims despite being
22 cast as state law. These claims implicate longstanding federal government policies and federal laws
23 concerning matters of uniquely national importance that necessarily raise disputed and substantial
24 federal issues; they are completely preempted by federal law; they are based on Defendants’ actions on
25 federal lands/enclaves (including the Outer Continental Shelf) and at the direction of federal officers;
26 and they relate to federal bankruptcy proceedings.

27 _____
28 ¹ Submission of this Joint Case Management Statement and Rule 26(f) Report does not operate as an admission of any
factual allegation or legal conclusion and is submitted subject to and without waiver of any right, defense, affirmative
defense, claim, or objection, including lack of personal jurisdiction, insufficient process, or insufficient service of process.

1 BP, ConocoPhillips, ExxonMobil, and Shell contend personal jurisdiction is lacking over them.
2 None of these Defendants is subject to general personal jurisdiction in California. Further, these
3 Defendants contend that Plaintiffs have failed to adequately plead allegations enabling this Court to
4 exercise specific personal jurisdiction in these actions.

5 Chevron, ConocoPhillips, and ExxonMobil do not dispute that venue is proper in the Northern
6 District of California. BP and Shell do not waive their objections to venue in the Northern District of
7 California, and reserve all their rights to move to dismiss on that ground.

8 Chevron, BP, ConocoPhillips, ExxonMobil, and Shell have been served or purportedly served
9 in both actions. Chevron, ConocoPhillips, and ExxonMobil do not intend to challenge the sufficiency
10 of service of process. BP and Shell do not waive their objections to the sufficiency of service of
11 process, and reserve all their rights to move to dismiss on that ground. Chevron's third-party complaint
12 against Statoil ASA has also been served.

13 **2. FACTS**

14 **A. *Plaintiffs' Statement:*** Defendants are the five largest investor-owned fossil fuel
15 companies in the world as measured by their historical production of fossil fuels. The use of fossil
16 fuels is the primary source of greenhouse gas pollution that causes global warming, a point scientists
17 settled long ago. Defendants produced massive amounts of fossil fuels despite knowing, since at least
18 the late 1970s, that massive fossil fuel usage would cause dangerous global warming. And Defendants
19 did not simply produce fossil fuels. They engaged in large-scale, sophisticated advertising campaigns
20 to promote pervasive fossil fuel usage and to portray fossil fuels as environmentally responsible, and
21 denied mainstream climate science or downplayed the risks of global warming.

22 San Francisco and Oakland now must build sea walls and other infrastructure to protect human
23 safety and public and private property from global warming-induced sea level rise. Global warming-
24 driven sea level rise has injured and continues to injure Plaintiffs by increasing coastal erosion,
25 inundation of property, interference with the operation of public infrastructure, the reach of storm
26 surges superimposed on higher seas, and flooding and flood risks. The rapidly rising sea along the
27 Pacific Coast and in San Francisco Bay poses an imminent threat of catastrophic storm surge because
28 any storm is superimposed on a higher sea level. Without the requested abatement fund remedy,

1 Plaintiffs' injuries will continue and become increasingly severe over time.

2 **B. *Defendants' Statement:*** Defendants dispute Plaintiffs' allegations and deny any
3 wrongdoing or liability. Plaintiffs' efforts to impose wholesale liability on Defendants—who are five
4 entities of thousands participating in the vast, global fossil fuel industry—for claimed global climate
5 change and all its alleged impacts, and for their own infrastructure problems, finds no basis in tort or
6 any other law and no basis in fact. These claims fail based on, among other things, federal preemption
7 and related doctrines, proximate causation requirements, the speculative nature of Plaintiffs' claims
8 and other fatal deficiencies. Defendants also dispute Plaintiffs' alleged injuries. Any claimed damages,
9 including future damages that may hypothetically occur, alleged to be caused by climate change are
10 too tenuous, speculative, and uncertain to be accounted for with any certainty at this time.

11 **3. LEGAL ISSUES**

12 **A. *Plaintiffs' Statement:*** These cases involve a single cause of action under California
13 law. Plaintiffs allege that Defendants' production of massive amounts of fossil fuels, and promotion of
14 pervasive use of fossil fuels, has caused a public nuisance, global warming-induced sea level rise,
15 under California public nuisance law, including Civil Code sections 3479 and 3480. Plaintiffs seek an
16 abatement fund to pay for necessary reconstruction, relocation, and protection of existing
17 infrastructure and property, as well as additional adaptation measures that will be necessary to protect
18 Plaintiffs from current and future sea level rise injuries caused by global warming. An order
19 establishing an abatement fund is an appropriate equitable remedy for a public nuisance under
20 California law.

21 This case does not seek to hold Defendants liable for their own emissions of greenhouse gases
22 or to restrain Defendants from engaging in their businesses. This case seeks only to hold Defendants
23 liable for the cost of abating a public nuisance caused by their massive and ongoing fossil fuel
24 production and promotion activities.

25 **B. *Defendants' Statement:*** Plaintiffs' claims are meritless. Defendants will seek dismissal
26 of Plaintiffs' claims because, among other reasons, they lack proximate causation, they are barred,
27 preempted, and/or displaced by the United States Constitution, and multiple other federal and statutory
28 doctrines. Through their complaints, Plaintiffs seek to expand and distort tort law well beyond that

1 recognized in any U.S. court. It is not surprising that prior tort actions based on alleged climate-change
2 related harms have been dismissed on threshold grounds, including in this Circuit.² Plaintiffs’
3 sweeping allegations attack the entire fossil fuel industry and improperly seek to hold five companies
4 within that vast industry responsible for global climate change and greenhouse gas emissions going
5 back decades.

6 If these cases proceed beyond motions to dismiss, Defendants maintain that there are thousands
7 of third parties that are necessary or indispensable to resolution of these cases or that otherwise ought
8 to be joined, including the federal government and the state of California.

9 **4. MOTIONS**

10 **A. Prior Motions**

11 On October 27, 2017, Plaintiffs sought to relate the Oakland and San Francisco actions.
12 (Oakland ECF No. 31.) Defendants consented to this motion and on October 31, 2017, this Court
13 granted the motion. (Oakland ECF No. 32.)

14 On November 2, 2017, Defendants filed an administrative motion to relate these cases to three
15 similar actions brought by the Counties of Marin and San Mateo and the City of Imperial Beach (“the
16 San Mateo Actions”) currently pending before Judge Chhabria. On November 6, 2017, Judge
17 Chhabria referred that motion to the Executive Committee. On November 8, 2017, the Executive
18 Committee denied the motion. (San Mateo Action, ECF No. 175 (quoting Civil L.R. 3-12(a))).

19 **B. Pending Motions**

20 Plaintiffs’ motion to remand (Oakland ECF 81; S.F. ECF 64) is fully briefed and currently
21 pending. The Court has scheduled a hearing on that motion for February 8, 2018 at 2:00 PM.

22 **C. Anticipated Motions**

23 Plaintiffs intend to amend their complaints solely to substitute “ConocoPhillips” for named
24 Defendant “ConocoPhillips Company,” a subsidiary of ConocoPhillips. Plaintiffs are seeking to
25

26 ² See, e.g., *Native Vill. of Kivalina v. ExxonMobil Corp.*, 663 F. Supp. 2d 863, 872 (N.D. Cal. 2009) (dismissing
27 global-warming federal nuisance claim for lack of standing and of judicially discoverable and manageable standards),
28 *aff’d on other grounds*, 696 F.3d 849 (9th Cir. 2012) (holding that the Clean Air Act displaced federal common law claim
for global-warming public nuisance); *Connecticut v. Am. Elec. Power Co.*, 406 F. Supp. 2d 265 (S.D.N.Y. 2005)
(dismissing global-warming public nuisance claims as nonjusticiable political questions), *rev’d*, 582 F.3d 309 (2d Cir.
2009), *rev’d*, *Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410, 424 (2011) (holding that the Clean Air Act displaced
federal common law claim for global-warming public nuisance).

1 stipulate with Defendants that such an amendment will not waive their objection to subject matter
2 jurisdiction. If the Defendants will not agree to so stipulate, Plaintiffs intend to file a motion for an
3 order from the Court granting permission to amend their complaints and providing that such
4 amendment would not constitute a waiver of Plaintiffs' objection to subject matter jurisdiction.

5 The Defendants anticipate filing motions to dismiss pursuant to Fed. R. Civ. P. 12(b), including
6 but not limited to Fed. R. Civ. P. 12(b)(2). Some Defendants, including BP and Shell, also intend to
7 challenge the sufficiency of service of process as well as proper venue.

8 In addition, all Defendants anticipate filing dispositive motions to dismiss including under
9 Fed. R. Civ. P. 12(b)(6), seeking to dismiss Plaintiffs' Complaints for failing to state a claim upon
10 which relief may be granted. If necessary, Defendants also expect to move to stay discovery pending
11 resolution of the motions to dismiss.

12 Some of the Defendants are considering bringing a motion to strike Plaintiffs' claims on the
13 ground that the claims challenge Defendants' acts in furtherance of their rights of petition and free
14 speech, such that the claims constitute strategic lawsuits against public participation ("SLAPPs").

15 One or more Defendants are considering bringing a motion to disqualify Plaintiffs'
16 contingency counsel, Hagens Berman Sobol Shapiro LLP, on the ground that contingent-fee
17 arrangements are expressly prohibited in public nuisance actions of this kind, and that Plaintiffs'
18 contingency counsel has violated the requisite standard of neutrality through their longstanding
19 campaigns against energy companies and by exercising improper control of this litigation.

20 In the event that any of Plaintiffs' claims remain after the Court's ruling on these anticipated
21 motions to dismiss, some or all of the remaining Defendants expect to bring counter-claims, cross-
22 claims, and third-party claims against other parties, and may likewise move to join third parties
23 considered to be necessary or indispensable to resolution of this case.

24 Defendants also expect to file motion(s) for complete or partial summary judgment.

25 To the extent this Court were to grant remand, Defendants would seek a stay of remand to
26 preserve their right to appeal, including because 28 U.S.C. Section 1447(d) grants an express right of
27 appeal for cases removed "pursuant to section 1442." To preserve this right, Defendants would thus
28 request that the Court temporarily stay any such order, and direct that it not be mailed to the State

1 Court under section 1447(c), to permit Defendants to appeal and to seek a stay pending completion of
2 that appeal from this Court and, if necessary, the Ninth Circuit.

3 **5. AMENDMENT OF PLEADINGS**

4 **A. *Plaintiffs' Statement:*** If the case remains in federal court, Plaintiffs propose a deadline
5 for filing or requesting approval to file amended pleadings of no later than five months after this
6 Court's entry of a final order on Plaintiffs' Motion to Remand. This deadline would be subject to
7 modification by consent of the parties or, upon the request of one or more parties, upon further order
8 of this Court. Plaintiffs do not at this time expect to add parties or claims, other than amendment of the
9 complaints to substitute the "ConocoPhillips" parent entity for the "ConocoPhillips Company"
10 subsidiary discussed above. Plaintiffs reserve all rights to amend their pleadings, as necessary, upon
11 review of Defendants' anticipated motions to dismiss and/or initial disclosures and discovery
12 productions.

13 **B. *Defendants' Statement:*** Defendants reserve all their rights to oppose any proposed
14 amended complaints, to add defenses to any amended complaints, and to bring counter-claims, cross-
15 claims, and third-party claims as the litigation develops. Any time limits on Plaintiffs' ability to amend
16 their complaints should not restrict Defendants' ability to bring claims or otherwise join third parties.

17 **6. EVIDENCE PRESERVATION**

18 Counsel certify they have reviewed the Guidelines Relating to the Discovery of Electronically
19 Stored Information and confirm that on January 18, 2018, the parties met and conferred pursuant to
20 Fed. R. Civ. P. 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant
21 to the issues reasonably evident in this action. Pursuant to the Supplemental Order to Order Setting
22 Initial Case Management Conference in Civil Cases Before Judge William Alsup, counsel state they
23 have taken affirmative steps as necessary to comply with the Court's ESI Guidelines.

24 **7. DISCLOSURES**

25 **A. *Joint Statement:*** Pursuant to Fed. R. Civ. P. 26(a)(1)(C), all Parties object to
26 exchanging Rule 26 Initial Disclosures and agree that it is premature for them to do so at this time.

27 **B. *Plaintiffs' Statement:*** Plaintiffs would be amenable, however, to the Court ordering the
28 parties to make their Initial Disclosures within thirty (30) days of the Court's decision on the motion to

1 remand if remand is denied and regardless of any appeal.

2 **C. Defendants' Statement:** Defendants contend that the exchange of Initial Disclosures
3 should be postponed pending the Court's decision on Defendants' anticipated motions to dismiss.
4 Until the jurisdictional and preliminary dispositive motions are decided, Defendants object to
5 providing Initial Disclosures because the issue will either be moot or the Court's rulings could impact
6 the scope of any remaining claim, especially given the overbreadth of the complaints.

7 **8. DISCOVERY AND RULE 26(F) DISCOVERY PLAN**

8 **A. Discovery Taken to Date:** No discovery has been taken to date and the Parties have
9 not identified any pending discovery disputes.

10 **B. Anticipated Discovery**

11 *Anticipated Scope and Subjects of Discovery*

12 **1. Joint Statement:** The Parties agree that discovery should not commence at this time.

13 **2. Plaintiffs' Statement:** Plaintiffs at this time, without intending to limit the categories of
14 information which they may seek through discovery, expect the scope of anticipated discovery against
15 Defendants to include the matters set forth in the letter from Plaintiffs' counsel provided to Defendants
16 as part of the Rule 26(f) conferral process. Plaintiffs do not intend to conduct discovery in phases or to
17 limit discovery to any particular issues. Plaintiffs reserve the right to conduct discovery on additional
18 subjects, and/or of a different scope, as may be necessary and otherwise in compliance with the
19 Federal Rules of Civil Procedure and applicable local rules, standing orders, and/or orders of this
20 Court.

21 If this case remains in federal court, Plaintiffs propose the discovery and pretrial schedule
22 set forth in Exhibit A. Plaintiffs reserve the right to seek modification of their proposed discovery and
23 pretrial schedule by stipulation and/or further order of the Court.

24 **3. Defendants' Statement:** Defendants will seek dismissal of these cases on multiple
25 bases. Dismissal on the pleadings would make unnecessary the lengthy, burdensome, and costly
26 discovery these cases could require. Moreover, any discovery prior to the Court ruling on the motions
27 to dismiss is especially unjustified given the fatal lack of particularity in Plaintiffs' claims, which
28 encompass the very fact that Defendants have been engaged in the fossil fuel business for many

1 decades, attacks the very existence of the industry, and implicates virtually every public statement
2 allegedly made by each Defendant (and/or their hundreds of separate subsidiaries or affiliates) over the
3 course of decades regarding economic policy, environmental energy policy, alternative energy and a
4 host of other issues.

5 Plaintiffs' claims are necessarily based on global emissions by countless actors worldwide
6 over many decades, including Plaintiffs themselves, national and local governments and agencies of
7 not only the United States but also of every other nation, as well as countless consumers. To the extent
8 any claims survive, Defendants will seek to join many other actors who are significant emitters of
9 greenhouse gases or otherwise responsible for the behavior about which the Plaintiffs complain.

10 The scope of appropriate discovery will vary to a great degree depending on the Court's
11 ruling on the motions to dismiss and resulting limitations and clarifications of the scope of the claims
12 and the causation theories actually being asserted by Plaintiffs, as well as the identity of additional
13 parties that are joined in this suit and the nature of the claims against them. For all these reasons,
14 Defendants respectfully submit that this Court should resolve Plaintiffs' motion to remand and
15 Defendants' anticipated motions to dismiss, as well as any third-party pleadings before the Parties
16 proceed with discovery.

17 The breadth of discovery implicated by the claims as stated would be extremely
18 burdensome, costly, inefficient, and unjustified. The proper scope of discovery can be determined only
19 if these cases proceeds beyond the motions to dismiss, and subject to any limitations the Court places
20 on Plaintiffs' claims.

21 ***Electronically Stored Information***

22 The parties have conferred and will continue to confer regarding disclosure, discovery, and
23 preservation of electronically stored information. The parties have reviewed this Court's model
24 stipulated order regarding discovery of electronically stored information in standard cases and will
25 consider whether to execute that order, with or without modification, or to agree upon another protocol
26 for submission to the Court, at the appropriate time.

27 ***Claims of Privilege/Privilege Issues***

28 The Parties will confer further and, if necessary, submit to the Court a proposed stipulated

1 protective order in keeping with the Northern District's Model Protective Order that will apply to
2 highly confidential and confidential information, including any commercially sensitive and proprietary
3 information, produced in discovery. The parties agree that Federal Rule of Evidence 502 will govern
4 inadvertent production of privileged information.

5 ***Changes to the Limitations on Discovery Imposed by the Federal Rules***

6 **1. *Plaintiffs' Statement:*** Plaintiffs propose that limitations on the number of depositions
7 under Fed. R. Civ. P. 30(a)(2) and the number of interrogatories under Fed. R. Civ. P. 33(a)(1) should
8 be increased in a case of this scope involving five separate large corporate Defendants and involving
9 conduct over a significant time period of decades. While it is difficult to predict at this stage of the
10 case how many depositions of Defendants will be required, given the size and complexity of these
11 corporate Defendants and the long period of time at issue in the case, it is reasonable to expect that
12 Plaintiffs will need to take at least thirty-five (35) depositions of each Defendant and its employees,
13 not including third party depositions. With respect to interrogatories, it is reasonable to expect that
14 Plaintiffs will need to serve at least 30 interrogatories to each Defendant.

15 **2. *Defendants' Statement:*** Defendants believe that it is premature to address possible
16 changes to the limitations on the discovery imposed by the Federal Rules. Once the pending Motion to
17 Remand, the anticipated motions to dismiss, the threshold questions about the viability and the scope
18 of the claims, and the number and identity of additional parties to be brought into the case have been
19 addressed by the Court, the Parties will meet and confer about any appropriate changes to the
20 limitations to discovery imposed by the Federal Rules of Civil Procedure. The scope of discovery
21 proposed by Plaintiffs in these cases only serves to underscore the necessity of resolving the critical
22 threshold legal issues in advance of beginning initial disclosures and discovery.

23 ***Opportunities to Reduce Costs and Increase Efficiency and Speed***

24 **1. *Joint Statement:*** The Parties will increase efficiency and speed by exchanging
25 documents, including written discovery, electronically.

26 **2. *Defendants Statement:*** Postponing the commencement of any discovery at least until
27 after the Court's ruling on the Defendants' anticipated motions to dismiss will reduce costs and
28

1 increase efficiency by postponing judicial resources necessary to resolve premature disputes regarding
2 the proper scope of any discovery.

3 **9. CLASS ACTIONS**

4 These cases are not class actions and do not require certification as such.

5 **10. RELATED CASES**

6 **A. *Joint Statement:*** On October 31, 2017, this Court entered an order, on stipulation of the
7 Parties, relating these actions. On November 8, 2017, this District's Executive Committee declined to
8 relate these actions to three other actions currently pending before Judge Chhabria.

9 **B. *Plaintiffs' Statement:*** On January 22, 2018, Plaintiffs filed a Notice of Pendency of
10 Other Action or Proceeding informing the Court of (i) a January 8, 2018 petition for pre-suit discovery
11 filed by Exxon Mobil Corporation in Texas state court and (ii) an action filed in January by the City of
12 New York in the Southern District of New York. Plaintiffs do not believe these cases are currently
13 related to any other pending cases or proceedings for the purposes of Civil Local Rules 3-12 and 3-13.

14 **C. *Defendants' Statement:*** Defendants believe that these cases are also related to the three
15 similar cases filed by the Counties of San Mateo and Marin, and the City of Imperial Beach (Case No.
16 17-cv-04929, Case No. 17-cv-04935, and Case No. 17-cv-04934, respectively). Defendants further
17 believe that the two cases before this Court are also related to three other cases in this District alleging
18 similar climate-change related harms based on Defendants' production and sale of oil and gas, filed by
19 the City of Santa Cruz (Case No. 18-cv-00458), the County of Santa Cruz (Case No. 18-cv-00450),
20 and the City of Richmond (California State Court Case No. 18-00055). Defendants also note that
21 plaintiffs' counsel represent the City of New York in a similar lawsuit brought in the Southern District
22 of New York against the same Defendants (S.D.N.Y. Case No. 18-cv-182). ExxonMobil's petition
23 filed in Texas state court pursuant to Rule 202 of the Texas Rules of Civil Procedure does not relate to
24 these actions.

25 **11. RELIEF**

26 **A. *Plaintiffs' Statement:*** In both actions, Plaintiffs seek an order finding that Defendants
27 are jointly and severally liable for the public nuisance of global warming-induced sea level rise.
28 Plaintiffs seek an abatement fund to pay for the costs in San Francisco and Oakland for the People to

1 adapt to global warming-induced sea level rise. Plaintiffs intend to establish the amount of the
2 necessary abatement funds through expert calculations and testimony to be developed at an appropriate
3 time and thus it is premature to compute damages at this time. In addition, Plaintiffs seek attorneys'
4 fees, costs and expenses, and both pre- and post-judgment interest as permitted by California law.

5 **B. *Defendants' Statement:*** Plaintiffs' claims have no merit, and Plaintiffs are entitled to
6 no relief whatsoever. Defendants request that the Court enter judgment against Plaintiffs on all causes
7 of action and deny all of Plaintiffs' prayers for relief. Plaintiffs' requested "abatement fund" is nothing
8 more than a request for damages, which are not recoverable pursuant to their public nuisance cause of
9 action. Moreover, Defendants do not believe there is any legally valid means of proving, calculating,
10 or attributing causation or damages in this case. Defendants reserve the right to seek costs to the extent
11 they prevail.

12 **12. SETTLEMENT AND ADR**

13 The Parties met and conferred regarding their obligations under this District's Civil Local Rule
14 16-8 and ADR Local Rules 3-5. The Parties agreed that any ADR process is premature at this time.
15 The Parties and counsel filed ADR Certifications and a Joint Notice of Need for ADR Phone
16 Conference, which was scheduled and took place on January 30, 2018. At this time, the parties do not
17 expect to be able to settle these cases.

18 **13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

19 The Parties respectfully decline to have a magistrate judge conduct all further proceedings
20 including trial and entry of judgment.

21 **14. OTHER REFERENCES**

22 The Parties do not currently believe that these actions are suitable for reference to binding
23 arbitration or a special master.

24 **15. NARROWING OF ISSUES**

25 **A. *Joint Statement:*** The parties will continue to confer regarding the possible narrowing
26 of issues. At this time, the parties do not request any bifurcation of issues, claims, or defenses.

27 **B. *Plaintiffs' Statement:*** Plaintiffs do not at this time believe that pertinent factual and/or
28 legal issues can be narrowed by agreement or motion.

1 **C. *Defendants' Statement:*** Defendants believe that the Court's decision on Defendants'
2 anticipated motions to dismiss will narrow the scope of the issues presented.

3 **16. EXPEDITED TRIAL PROCEDURE/SCHEDULE**

4 The Parties do not believe that an expedited schedule is appropriate for these actions.

5 **17. SCHEDULING**

6 **A. *Plaintiffs' Statement:*** Proposed dates for designation of experts, discovery cutoff,
7 hearing of dispositive motions, pretrial conference and trial are set forth above in the Plaintiffs'
8 proposed discovery plan attached as Exhibit A.

9 **B. *Defendants' Statement:*** Defendants assert that Plaintiffs' claims are not viable and
10 therefore no discovery is justified. Regardless, Defendants believe that it is premature to propose any
11 discovery or trial schedule until after the Court has ruled on the motion to remand, the anticipated
12 motions to dismiss and other threshold motions, and the addition of necessary third parties.

13 **18. TRIAL**

14 **A. *Plaintiffs' Statement:*** Plaintiffs intend to try these actions to the Court. A consolidated
15 trial in these actions is expected to take approximately six weeks.

16 **B. *Defendants' Statement:*** Defendants believe that it is premature to estimate the duration
17 of trial. Once the motions to dismiss have been decided and all other relevant entities have been added
18 to any remaining claims, the Defendants will be in a better position to estimate the expected duration
19 of trial. Nothing in this Statement should be construed as a waiver by any Defendant of the right to a
20 trial by jury.

21 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

22 **A. *Plaintiffs' Statement:*** Plaintiffs have not filed a Certification of Interested Entities or
23 Persons because Civil Local Rule 3-15 does not apply to any governmental entity or its agencies.

24 **B. *Defendants' Statement:*** The Defendants have each filed Certifications of Interested
25 Parties.³ Defendants know of no additional interested entities or persons other than those identified in
26

27 ³ BP's Certifications of Interested Parties: Oakland ECF No. 10 and S.F. ECF No. 9; Chevron's Certifications of
28 Interested Parties: Oakland ECF No. 2 and S.F. ECF No. 2; ConocoPhillips' Certifications of Interested Parties: Oakland
ECF No. 42 and S.F. ECF No. 34; ExxonMobil's Certification of Interested Parties: Oakland ECF No. 55 and S.F. No.
ECF 41; and, Shell's Certifications of Interested Parties: Oakland ECF No. 74 and S.F. No. ECF 49.

1 their respective Certifications, and stand on the disclosures in those certifications of entities having
2 either (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii)
3 any other kind of interest that could be substantially affected by the outcome of the proceeding.

4 Defendants believe that one or more persons or entities might be funding Plaintiff's actions and
5 should be identified by Plaintiffs as persons or entities having either (i) a financial interest in the
6 subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that
7 could be substantially affected by the outcome of the proceeding. *See* Standing Order for All Judges of
8 the Northern District of California, ¶ 19.

9 **20. GUIDELINES FOR PROFESSIONAL CONDUCT**

10 Counsel of record for the Parties to these actions certify that they have reviewed the Guidelines
11 for Professional Conduct for the Northern District of California.

12 **21. OTHER MATTERS**

13 The parties at this time have not identified any other matters that may facilitate the just, speedy
14 and inexpensive disposition of this matter.

15 **22. PLAN TO PROVIDE OPPORTUNITIES TO JUNIOR LAWYERS**

16 Pursuant to the Supplemental Order to Order Setting Initial Case Management Conference in
17 Civil Cases Before Judge William Alsup, the Parties intend to provide opportunities to junior lawyers
18 to argue motions, take depositions, and examine witnesses at trial.⁴ Discovery and motion practice
19 other than Plaintiffs' motion to remand have not yet commenced. Although the Parties identify below
20 the junior attorneys who are working on these cases and are currently less than six years out of law
21 school, they will be able to assign specific attorneys to individual motions, depositions, and trial work
22 after the threshold motions and disputes have been resolved and the anticipated scope of motion
23 practice, and discovery, have been identified with more specificity.

24 Hagens Berman Sobol Shapiro on behalf of Plaintiffs: Emily Brown and Emerson Hilton;

25 Oakland City Attorney's office on behalf of Plaintiffs: legal fellow Malia McPherson;

26 Arnold & Porter Kaye Scholer LLP of behalf of Defendant BP: Ryan Light, Stephanie Kang,
27

28 ⁴ The Parties have discussed these requirements with their clients and do not believe it is necessary to require client representatives to attend the upcoming case management conference where this subject will be discussed.

1 and Rachael Shen.

2 Gibson Dunn & Crutcher LLP on behalf of Defendant Chevron: Richard Dudley, Steve Henrick,
3 Sam Eckman, Ryan McGinley-Stempel, Michael Selkirk, Jessica Culpepper, and Kelsey Helland.

4 Susman Godfrey LLP on behalf of Defendant Chevron: Kemper Diehl and Michael Adamson.

5 King & Spalding LLP on behalf of Defendant ConocoPhillips: Nicholas Miller-Stratton.

6 O'Melveny & Myers LLP on behalf of Defendant ExxonMobil: Lauren Kaplan.

7 Paul, Weiss, Rifkind Wharton & Garrison LLP on behalf of Defendant ExxonMobil: Nora
8 Ahmed and Charles Hamilton.

9 Munger, Tolles & Olson LLP on behalf of Defendant Shell: Elizabeth Kim.

10
11 Dated: February 1, 2018

Respectfully submitted,

12
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By: ** /s/ Matthew D. Goldberg

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