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17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN FRANCISCO DIVISION

20 THE PEOPLE OF THE STATE OF  
 21 CALIFORNIA, acting by and through Oakland  
 22 City Attorney BARBARA J. PARKER,

23 Plaintiff and Real Party in Interest,

24 v.

25 BP P.L.C.; CHEVRON CORPORATION;  
 26 CONOCOPHILLIPS COMPANY;  
 27 EXXONMOBIL CORPORATION; ROYAL  
 28 DUTCH SHELL PLC, and DOES 1 through 10,

Defendants.

Case No.: 3:17-cv-06011-WHA

**DEFENDANTS' RESPONSE TO  
COURT'S MARCH 23, 2018 "REQUEST  
FOR COMMENT"**

20 THE PEOPLE OF THE STATE OF  
 21 CALIFORNIA, acting by and through the San  
 22 Francisco City Attorney DENNIS J. HERRERA,

23 Plaintiff and Real Party in Interest,

24 v.

25 BP P.L.C.; CHEVRON CORPORATION;  
 26 CONOCOPHILLIPS COMPANY;  
 27 EXXONMOBIL CORPORATION; ROYAL  
 28 DUTCH SHELL PLC, and DOES 1 through 10,

Defendants.

Case No.: 3:17-cv-06012-WHA

**DEFENDANTS' RESPONSE TO  
COURT'S MARCH 23, 2018 "REQUEST  
FOR COMMENT"**

1 Pursuant to the Court's March 23, 2018 Request for Comment, Defendants submit this  
2 statement regarding "whether it would be best to resolve Royal Dutch Shell's motion  
3 challenging service first, and, if it succeeds, whether resolution of all other pending motions  
4 should be delayed until any snafu in service is cured." Defendants respectfully submit that, for  
5 three reasons, the Court should proceed to hear and decide Defendants' motions to dismiss in  
6 the ordinary course and should not adopt any special sequencing.

7 First, because Defendant Chevron Corporation ("Chevron") has not raised any objection  
8 concerning personal jurisdiction or sufficiency of service of process, the Court's disposition of  
9 those issues as to other Defendants will not obviate the need to address the merits of Chevron's  
10 motion to dismiss for failure to state a claim under Fed. R. Civ. P. 12(b)(6). There is thus no  
11 efficiency to be gained by deferring a decision on that Rule 12(b)(6) motion as to Chevron, and  
12 the Court thus should not delay making that decision.

13 Second, three Defendants (BP p.l.c., ConocoPhillips Company, and Exxon Mobil  
14 Corporation) have moved to dismiss for lack of personal jurisdiction but not for insufficiency of  
15 service of process. These Defendants' jurisdictional objections would not be affected by any  
16 ruling on the sufficiency of service as to Royal Dutch Shell plc ("RDS"), and there is thus no  
17 reason to defer any resolution of their threshold jurisdictional objections until after a decision on  
18 RDS's Rule 12(b)(5) motion.

19 Third, RDS has moved to dismiss the Complaints on multiple alternative grounds,  
20 including *both* lack of personal jurisdiction under Fed. R. Civ. P. 12(b)(2) and lack of sufficient  
21 service of process under Fed. R. Civ. P. 12(b)(5), and it would only delay these proceedings to  
22 resolve RDS's two threshold objections sequentially rather than in tandem. Proper service of  
23 process is itself a requirement for the exercise of personal jurisdiction over a defendant, *see In*  
24 *re Focus Media Inc.*, 387 F.3d 1077, 1081 (9th Cir. 2004), and *all* of RDS's threshold personal  
25 jurisdiction objections must be resolved before any additional alternative grounds raised by  
26 RDS may be considered with respect to RDS. *Sinochem Intern. Co. Ltd. v. Malaysia Intern.*  
27 *Shipping Corp.*, 549 U.S. 422, 430-31 (2007). Moreover, because Plaintiffs' purported service  
28 of process is apparently based on the premise that RDS's indirect subsidiary, Shell Oil

1 Company, is supposedly RDS’s “general manager” in California, the issues raised by RDS’s  
2 two threshold objections are not entirely separable from one another, and they should be decided  
3 in parallel rather than sequentially.

4 Accordingly, Defendants respectfully submit that all of the pending motions to dismiss  
5 should be resolved in the ordinary course without any special sequencing.

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1 Dated: March 28, 2018

Respectfully submitted,

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By: \*\*/s/ Theodore J. Boutrous

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22 \*\* Pursuant to Civ. L.R. 5-1(i)(3), the  
23 electronic signatory has obtained approval  
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