

1 JEFFREY H. WOOD  
Acting Assistant Attorney General

2 ALEX G. TSE  
3 Acting United States Attorney

4 ERIC GRANT (CA Bar No. 151064)  
Deputy Assistant Attorney General  
5 JUSTIN D. HEMINGER (D.C. Bar No. 974809)  
JUSTIN S. SMITH (D.C. Bar No. 453119)  
6 CHRISTINE W. ENNIS (CA Bar No. 246101)  
Telephone: (202) 616-9473  
7 Facsimile: (202) 514-4231  
E-mail: christine.ennis@usdoj.gov

8 Attorneys  
U.S. Department of Justice  
9 Environment & Natural Resources Division  
10 950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

11 *Counsel for the United States of America as Amicus Curiae*

12 **THE UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

14 THE PEOPLE OF THE STATE OF  
CALIFORNIA,

15 Plaintiff,

16 v.

17 BP P.L.C., CHEVRON CORPORATION,  
CONOCOPHILLIPS COMPANY, EXXON  
18 MOBIL CORPORATION, ROYAL DUTCH  
SHELL PLC,

19 Defendants.  
20

First filed Case: No. 3:17-cv-06011-WHA  
Related Case: No. 3:17-cv-06012-WHA

**UNITED STATES' MOTION FOR  
EXTENSION OF TIME TO CONSIDER  
WHETHER TO PARTICIPATE AS  
AMICUS CURIAE; [PROPOSED]  
ORDER**

21 Pursuant to Federal Rule of Civil Procedure 6(b) and Civil L.R. 6-3, the United States  
22 requests that the Court grant a twenty-day extension of time, until May 10, 2018, to allow the  
23 United States to determine whether to participate as *amicus curiae* in this proceeding and to  
24 prepare and submit any brief. The United States conferred with counsel for the Plaintiffs and  
25 counsel for Defendants and they do not oppose this motion. *See* accompanying Declaration of  
26 Christine Ennis (Ennis Dec.), ¶ 5.  
27  
28

1 As support for this motion, the United States asserts the following:

2 On March 1, 2018, the Court invited the United States to submit an amicus brief  
3 regarding “whether (and the extent to which) federal common law should afford relief of the type  
4 requested by the complaints.” Order Setting Deadline for Motions to Dismiss and Inviting  
5 United States to File Amicus Brief at 1, 17-CV-6011, ECF No. 136 (Mar. 1, 2018); 17-CV-6012,  
6 ECF No. 118. As the Court’s invitation implicitly recognizes, the United States has strong  
7 interests in the development of federal common law and in the interpretation of the Clean Air  
8 Act and other federal statutes relating to energy production. Thus, the United States has  
9 proceeded diligently to consider the legal questions raised by these lawsuits and to determine  
10 whether to participate as an *amicus curiae*. The decision regarding whether to participate  
11 requires consultation and coordination with multiple components within the United States  
12 Department of Justice and with other federal agencies. *See* Ennis Dec. ¶ 2.

13 The Court originally requested the United States’ brief by April 20, 2018, ten days after  
14 the close of briefing on the motions to dismiss. But on April 4, 2018, after Plaintiffs amended  
15 their complaints in this action, the Court set a new schedule for motions to dismiss. Order  
16 Setting Briefing Schedule for Motions to Dismiss Amended Complaint, 17-CV-6011, ECF No.  
17 207 (Apr. 4, 2018); 17-CV-6012, ECF No. 176. The Court extended by approximately one  
18 month the deadlines for the parties to file their briefs, such that briefing on the motions to  
19 dismiss the amended complaints is now set to close on May 10, 2018. The Court also scheduled  
20 a hearing on the motions to dismiss for May 24, 2018 at 8:00 A.M. The Court has provided  
21 notice that other potential amici should follow the briefing deadlines for the party they support,  
22 but noted that this timeline “does not apply to any amicus brief submitted by the United States.”  
23 Notice Re Timeline For Amicus Briefs, 17-CV-6011, ECF No. 209 (Apr. 17, 2018); 17-CV-  
24 6012, ECF No. 178.

25 Based on the need for intragovernmental coordination, the United States believes it will  
26 require an additional twenty days to complete the evaluation process and to draft and file an  
27 amicus brief (if the United States decides to do so). *See* Ennis Dec. ¶ 2. Thus, in accordance  
28

1 with the new schedule, the United States requests that the Court extend the deadline to file an  
2 amicus brief to May 10, 2018.

3 A twenty-day extension is a little shorter than the extension the new schedule affords the  
4 parties. Consistent with Civil L.R. 7, the deadline that the United States now proposes is two full  
5 weeks before the May 24 motions hearing date, allowing the parties and the Court time to review  
6 the United States' brief before the hearing. What is more, a twenty-day extension will give the  
7 United States the benefit of reviewing defendants' motion to dismiss and plaintiffs' opposition  
8 brief, as envisioned by the Court's original invitation to file an amicus brief.

9 For these reasons, the United States respectfully requests the Court grant a twenty-day  
10 extension of time, until May 10, 2018, for the United States to determine whether to participate  
11 as *amicus curiae* and file any brief. If the United States determines not to participate as *amicus*  
12 *curiae*, it will notify the Court accordingly.

13  
14 Dated: April 18, 2018.

Respectfully submitted,

15 JEFFREY H. WOOD  
16 Acting Assistant Attorney General  
17 Environment & Natural Resources Division

18 /s/ Christine W. Ennis  
19 ERIC GRANT  
20 Deputy Assistant Attorney General  
21 JUSTIN D. HEMINGER  
22 JUSTIN S. SMITH  
23 CHRISTINE W. ENNIS

24  
25  
26  
27  
28  
*Counsel for the United States of America*

**THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

BP P.L.C., CHEVRON CORPORATION,  
CONOCOPHILLIPS COMPANY, EXXON  
MOBIL CORPORATION, ROYAL DUTCH  
SHELL PLC,

Defendants.

First filed Case: No. 3:17-cv-06011-WHA  
Related Case: No. 3:17-cv-06012-WHA

**[PROPOSED] ORDER GRANTING  
UNITED STATES' MOTION FOR  
EXTENSION OF TIME TO CONSIDER  
WHETHER TO PARTICIPATE AS  
AMICUS CURIAE**

IT IS HEREBY ORDERED THAT the April 20, 2018 deadline set for the United States in the Order Setting Deadline for Motions to Dismiss and Inviting United States to File Amicus Brief is vacated. The United States' new deadline to file an amicus brief is May 10, 2018.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE