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Attorneys for Defendant
ROYAL DUTCH SHELL PLC

20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**
22 **SAN FRANCISCO DIVISION**

23 CITY OF OAKLAND and THE PEOPLE OF
THE STATE OF CALIFORNIA, acting by
and through the Oakland City Attorney,

24 Plaintiffs,

25 v.

26 BP P.L.C., CHEVRON CORP.,
27 CONOCOPHILLIPS, EXXON MOBIL
CORP., ROYAL DUTCH SHELL PLC, and
28 DOES 1 through 10,

Defendants.

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

Case No. 3:17-cv-6011-WHA

**STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING ROYAL DUTCH SHELL PLC'S
MOTION TO DISMISS AND
JURISDICTIONAL DISCOVERY**

1 CITY AND COUNTY OF SAN FRANCISCO
2 and THE PEOPLE OF THE STATE OF
3 CALIFORNIA, acting by and through the San
4 Francisco City Attorney,

5 Plaintiffs,

6 v.

7 BP P.L.C., CHEVRON CORP.,
8 CONOCOPHILLIPS, EXXON MOBIL
9 CORP., ROYAL DUTCH SHELL PLC, and
10 DOES 1 through 10,

11 Defendants.

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

**STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING ROYAL DUTCH SHELL PLC'S
MOTION TO DISMISS AND
JURISDICTIONAL DISCOVERY**

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1 WHEREAS, on April 19, 2018, Defendant Royal Dutch Shell plc (“Royal Dutch Shell”) filed
2 a motion to dismiss Plaintiffs’ first amended complaints for lack of personal jurisdiction, insufficient
3 service of process, and failure to state a claim under Federal Rules of Civil Procedure 12(b)(2),
4 12(b)(5), and 12(b)(6)¹;

5 WHEREAS, on May 25, 2018, “[f]or the reasons stated on the record” at the hearing on May
6 24, 2018, the Court ordered “jurisdictional discovery” as to Royal Dutch Shell and certain other
7 Defendants, ordered discovery as to “whether Shell Oil Company is Royal Dutch Shell’s ‘general
8 manager’” for purposes of sufficiency of process, and ordered supplemental briefing on the relevant
9 motions to dismiss following the conclusion of that discovery²;

10 WHEREAS, Plaintiffs and Royal Dutch Shell will effectuate a waiver of service of summons
11 in accordance with Federal Rule of Civil Procedure 4(d) that will moot Royal Dutch Shell’s motion
12 to dismiss for insufficient service of process under Rule 12(b)(5), thereby eliminating any need for
13 discovery in connection with the Rule 12(b)(5) issues;

14 WHEREAS, to avoid the delay, burden, and expense of jurisdictional discovery and
15 supplemental briefing, Royal Dutch Shell withdraws, for purposes of the above-captioned cases, the
16 portions of its motion to dismiss that gave rise to Plaintiffs’ request for jurisdictional discovery, and
17 Plaintiffs agree that, in light of this withdrawal, jurisdictional discovery and supplemental briefing are
18 no longer necessary;

19 WHEREAS, specifically, Royal Dutch Shell withdraws its arguments against specific
20 personal jurisdiction in Section I.B of its motion to dismiss other than those set forth in Section
21 I.B.3,³ and Royal Dutch Shell also withdraws the Declaration of Linda Szymanski, which was not
22 cited or relied upon in Section I.B.3⁴;

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24

¹ See ECF 222, 225, 17-cv-6011; ECF 186, 188, 17-cv-6012.

25 ² See ECF 259, 17-cv-6011; ECF 217, 17-cv-6012.

26 ³ Section I.B.3 is entitled, “Plaintiffs Cannot Show That Their Claims Arise From The
27 Attenuated Jurisdictional Contacts Alleged In The Amended Complaints.”

28 ⁴ Royal Dutch Shell therefore preserves, and continues to assert, the argument in Section I.B.3
(pp. 15-16) of Royal Dutch Shell’s Rule 12(b)(2) motion [ECF 222, 17-cv-6011; ECF 186, 17-cv-
6012] and in the associated portion of Royal Dutch Shell’s reply brief, viz., Section I.B. (pp. 6-9)
[ECF 249, 17-cv-6011; ECF 209, 17-cv-6012].

1 WHEREAS, with the aforementioned withdrawal, there is no remaining portion of Royal
2 Dutch Shell's motion to dismiss under Rule 12(b)(2) as to which Royal Dutch Shell is relying on any
3 declaration or other factual submission or as to which Plaintiffs are seeking discovery;

4 WHEREAS, Royal Dutch Shell's remaining argument concerning specific personal
5 jurisdiction in Section I.B.3 is substantially analogous to the specific personal jurisdiction argument
6 advanced by Exxon Mobil Corporation, as to which discovery has not been ordered;

7 WHEREAS, Plaintiffs and Royal Dutch Shell agree that Royal Dutch Shell's withdrawal of
8 certain of its arguments concerning specific personal jurisdiction in these cases shall have the same
9 effect as if Royal Dutch Shell had not made those arguments in its motion to dismiss, and that this
10 withdrawal is without prejudice to Royal Dutch Shell's right to contest any issue concerning the
11 merits of Plaintiffs' claims or Royal Dutch Shell's right to contest personal jurisdiction in other cases.

12 NOW THEREFORE, Plaintiffs and Royal Dutch Shell HEREBY STIPULATE AND
13 AGREE, subject to the approval and order of the Court, as follows:

14 1. For purposes of the above-captioned cases, Royal Dutch Shell withdraws its
15 arguments against specific personal jurisdiction in Section I.B of its motion to dismiss other than
16 those set forth in Section I.B.3, and Royal Dutch Shell also withdraws the Declaration of Linda
17 Szymanski, with the same effect as if those arguments had not been made and that evidence had not
18 been presented.

19 2. The only arguments Royal Dutch Shell continues to assert concerning specific
20 personal jurisdiction in the above-captioned cases are those in Section I.B.3 (pp. 15-16) of Royal
21 Dutch Shell's Rule 12(b)(2) motion [ECF 222, 17-cv-6011; ECF 186, 17-cv-6012] and the associated
22 portion of Royal Dutch Shell's reply brief, *viz.*, Section I.B (pp. 6-9) [ECF 249, 17-cv-6011; ECF
23 209, 17-cv-6012].

24 3. Because of this withdrawal, and because of Plaintiffs' and Royal Dutch Shell's
25 intention to effectuate a waiver of service of process through Rule 4(d) in the above-captioned cases,
26 Plaintiffs agree that their requests for discovery in connection with Royal Dutch Shell's motion to
27 dismiss are moot, and Plaintiffs will not serve jurisdictional discovery on Royal Dutch Shell. Royal
28 Dutch Shell likewise will not serve jurisdictional discovery on Plaintiffs.

1 4. Because of this stipulation, there is no need for jurisdictional discovery as to Royal
2 Dutch Shell or discovery as to “whether Shell Oil Company is Royal Dutch Shell’s ‘general
3 manager,’” and there is likewise no need for further supplemental briefing on Royal Dutch Shell’s
4 motion to dismiss.

5
6 **IT IS SO STIPULATED.**

7
8 Dated: June 5, 2018

Respectfully submitted,

9 **/s/ Erin Bernstein

/s/ David C. Frederick

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28 ** Pursuant to Civ. L.R. 5-1(i)(3), the
electronic filer has obtained approval from
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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 6, 2018.



THE HONORABLE WILLIAM ALSUP
UNITED STATES DISTRICT COURT JUDGE

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