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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 OAKLAND DIVISION

18 PACIFIC COAST FEDERATION OF
FISHERMEN'S ASSOCIATIONS, INC.,

19 Plaintiff,

20 v.

21 CHEVRON CORP.; CHEVRON U.S.A.,
INC.; EXXON MOBIL CORP.;
22 EXXONMOBIL OIL CORP.; BP P.L.C.; BP
AMERICA, INC.; ROYAL DUTCH SHELL
23 PLC; SHELL OIL PRODUCTS CO. LLC;
CITGO PETROLEUM CORP.;
24 CONOCOPHILLIPS; CONOCOPHILLIPS
CO.; PHILLIPS 66; TOTAL E&P USA INC.;
25 TOTAL SPECIALTIES USA INC.; ENI
S.P.A.; ENI OIL & GAS INC.; ANADARKO
26 PETROLEUM CORP.; OCCIDENTAL
PETROLEUM CORP.; OCCIDENTAL
27 CHEMICAL CORP.; REPSOL S.A.; REPSOL
ENERGY NORTH AMERICA CORP.;
28 REPSOL TRADING USA CORP.;
MARATHON OIL CO.; MARATHON OIL

Case No. ³18-cv-07477-VC

**JOINT STIPULATION TO STAY
PROCEEDINGS AND ORDER**

[Removal from the Superior Court of the State of
California, County of San Francisco, Case No.
CGC-18-571285]

Action Filed: November 14, 2018

1 CORP.; MARATHON PETROLEUM CORP.;
2 HESS CORP.; DEVON ENERGY CORP.;
3 DEVON ENERGY PRODUCTION CO., L.P.;
4 ENCANA CORP.; APACHE CORP.; and
5 DOES 1 through 100, inclusive,

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Defendants.

1 WHEREAS, on November 14, 2018, Plaintiff Pacific Coast Federation of Fishermen’s
2 Associations, Inc. (“Plaintiff”) filed a Complaint in the Superior Court of the state of California,
3 County of San Francisco, against thirty energy companies (“Defendants”), alleging that Defendants
4 have tortiously contributed to global warming in various ways;

5 WHEREAS, the Complaint alleges that global warming has had the effect of harming local
6 crab fishermen—some of which are Plaintiff’s members—and that Defendants are responsible for the
7 losses suffered by these crab fishermen;

8 WHEREAS, Plaintiff’s Complaint asserts causes of action against Defendants for nuisance,
9 strict liability failure to warn, strict liability design defect, negligence, and negligent failure to warn;

10 WHEREAS, on December 12, 2018, Defendants Chevron Corporation and Chevron U.S.A.,
11 Inc. filed a notice of removal pursuant to 28 U.S.C §§ 1331, 1332(d), 1334, 1441(a), 1442, 1452,
12 1453(b) and 1367(a), and 43 U.S.C. § 1349(b), with consent from all Defendants that Plaintiff had
13 served or purported to serve;

14 WHEREAS, Plaintiff intends to file a motion to remand, which is currently due by January
15 11, 2019, and Defendants intend to oppose any such motion;

16 WHEREAS, Defendants intend to file Rule 12 motions on various grounds, including based
17 on a lack of personal jurisdiction pursuant to Rule 12(b)(2) as to many Defendants;

18 WHEREAS, this stipulation is not intended to operate as an admission of any factual
19 allegation or legal conclusion and is submitted subject to and without waiver of any right, defense,
20 affirmative defense, or objection, including personal jurisdiction, insufficient process, and
21 insufficient service of process;

22 WHEREAS, on December 13, 2018, the Parties filed a joint stipulation extending the deadline
23 for filing any response to the Complaint to and including January 18, 2019, while the parties discuss a
24 more comprehensive briefing schedule that would extend Defendants’ time to respond to the
25 Complaint until after the Court decides Plaintiff’s motion to remand;

26 WHEREAS, many of the Defendants in this action are also defendants in eight similar actions
27 seeking to hold energy companies responsible for alleged global warming-based harms, including:
28 *County of San Mateo v. Chevron Corp. et al.*, No. 3:17-cv-4929-VC (N.D. Cal.); *City of Imperial*

1 *Beach v. Chevron Corp. et al.*, No. 3:17-cv-4934-VC (N.D. Cal.); *County of Marin v. Chevron Corp.*
2 *et al.*, No. 3:17-cv-4935-VC (N.D. Cal.); *City of Santa Cruz v. Chevron Corp. et al.*, No. 3:18-cv-
3 458-VC (N.D. Cal.); *County of Santa Cruz v. Chevron Corp. et al.*, No. 3:18-cv-450-VC (N.D. Cal.);
4 *City of Richmond v. Chevron Corp., et al.*, No. 3:18-cv-732-VC (N.D. Cal.); *City of Oakland et al. v.*
5 *BP p.l.c. et al.*, No. 3:17-cv-6011-WHA (N.D. Cal.), and *City and County of San Francisco et al. v.*
6 *BP p.l.c. et al.*, No. 3:17-cv-6012-WHA (N.D. Cal.);

7 WHEREAS, Plaintiff's counsel, Sher Edling LLP, also represents the plaintiffs in all eight of
8 these actions;

9 WHEREAS, all eight of these actions were originally filed in state court and removed by
10 defendants to this federal district on many of the same grounds invoked in the Notice of Removal
11 filed in this case—including that the claims arise under federal common law; involve disputed and
12 substantial questions of federal law; are completely preempted by the Clean Air Act; are removable
13 under the Outer Continental Shelf Lands Act and the federal officer removal statute; are removable
14 because they arise out of conduct on federal enclaves; are removable under the bankruptcy statutes;
15 and are removable because they arise under federal admiralty jurisdiction;

16 WHEREAS; six of these actions were related to each other and assigned to Judge Chhabria,
17 and two of the actions were related to each other and assigned to Judge Alsup;

18 WHEREAS, the plaintiffs in both sets of related actions filed remand motions arguing that
19 removal was not warranted on any of the grounds raised in the defendants' notices of removal;

20 WHEREAS, Judge Chhabria granted the motions to remand in the six cases assigned to him
21 but stayed the remand pending appeal;

22 WHEREAS, the defendants appealed Judge Chhabria's remand orders to the Ninth Circuit—
23 *see* Ninth Cir. Nos. 18-15499, 18-15502, 18-15503, 18-16376—and the Ninth Circuit consolidated
24 those appeals;

25 WHEREAS, the defendants filed their Opening Brief in the appeals from Judge Chhabria's
26 remand orders on November 21, 2018, the plaintiffs' answering brief is due January 22, 2019, and the
27 defendants' reply brief is currently due on or about February 12, 2019;

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1 WHEREAS, Judge Alsup denied the plaintiffs’ motions to remand in the two cases assigned
2 to him and later dismissed the plaintiffs’ claims under Federal Rule of Civil Procedure 12(b)(6), and
3 dismissed the claims against four of the defendants for lack of personal jurisdiction under Rule
4 12(b)(2);

5 WHEREAS, the plaintiffs appealed to the Ninth Circuit Judge Alsup’s orders denying remand
6 and dismissing their claims—*see* Ninth Cir. No. 18-16663—and their Opening Brief is due February
7 25, 2019, the defendants’ answering brief is due March 27, 2019, and the plaintiffs’ reply brief is
8 currently due on or about April 17, 2019;

9 WHEREAS, the two appeals pending in the Ninth Circuit involve many of the same parties as
10 this action and raise many of the same issues that will be addressed in Plaintiff’s forthcoming motion
11 to remand;

12 WHEREAS, this Court has inherent authority to issue a stay “pending resolution of
13 independent proceedings which bear upon the case,” *Leyva v. Certified Grocers of Cal. Ltd.*, 593 F.2d
14 857, 863–64 (9th Cir. 1979);

15 WHEREAS, the Parties agree that no damage will result from granting a stay, that neither
16 Party will suffer inequity or hardship as a result of a stay, and that a stay will promote the “orderly
17 course of justice,” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962);

18 THEREFORE, the Parties jointly request that the Court stay further proceedings in this action
19 until both sets of appeals currently pending in the Ninth Circuit as Nos. 18-15499, 18-15502, 18-
20 15503, 18-16376, and 18-16663 are finally resolved, including resolution of any en banc proceedings
21 in the Ninth Circuit or proceedings in the United States Supreme Court.

22
23 Dated: December 18, 2018

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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, all further proceedings in this action are hereby STAYED pending final resolution of the following appeals currently pending in the Ninth Circuit: Nos. 18-15499, 18-15502, 18-15503, 18-16376, and 18-16663.

DATE: January 2, 2019



UNITED STATES DISTRICT JUDGE