

Nos. 18-15499, 18-15502, 18-15503, 18-16376

---

IN THE  
**United States Court of Appeals for the Ninth Circuit**

COUNTY OF SAN MATEO, Plaintiff-Appellee, v. CHEVRON CORPORATION, <i>et al.</i> , Defendants-Appellants.	No. 18-15499 No. 17-cv-4929-VC N.D. Cal., San Francisco Hon. Vince Chhabria presiding
CITY OF IMPERIAL BEACH, Plaintiff-Appellee, v. CHEVRON CORPORATION, <i>et al.</i> , Defendants-Appellants.	No. 18-15502 No. 17-cv-4934-VC N.D. Cal., San Francisco Hon. Vince Chhabria presiding
COUNTY OF MARIN, Plaintiff-Appellee, v. CHEVRON CORPORATION, <i>et al.</i> , Defendants-Appellants.	No. 18-15503 No. 17-cv-4935-VC N.D. Cal., San Francisco Hon. Vince Chhabria presiding
COUNTY OF SANTA CRUZ; et al., Plaintiffs-Appellees v. CHEVRON CORPORATION; et al., Defendants-Appellants.	No. 18-16376 Nos. 18-cv-00450-VC; 18-cv-00458-VC; 18-cv-00732-VC N.D. Cal., San Francisco Hon. Vince Chhabria presiding

---

**MOTION TO STAY THE MANDATE**

---

Thomas G. Hungar  
Joshua S. Lipshutz  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
(202) 955-8500  
thungar@gibsondunn.com  
jlipshutz@gibsondunn.com

Theodore J. Boutrous, Jr.  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, California 90071-3197  
(213) 229-7000  
tboutrous@gibsondunn.com

*Counsel for Defendants-Appellants Chevron Corporation and  
Chevron U.S.A., Inc.*

*[Additional counsel listed on signature page]*

**TABLE OF CONTENTS**

	<u>Page</u>
INTRODUCTION .....	1
BACKGROUND .....	2
ARGUMENT .....	3
I.    Defendants’ Petition Will Present A Substantial Question .....	3
II.   There Is Good Cause To Stay The Mandate.....	6
CONCLUSION.....	8

## TABLE OF AUTHORITIES

	<u>Page(s)</u>
<b>Cases</b>	
<i>American Electric Power Co. v. Connecticut</i> , 564 U.S. 410 (2011).....	6
<i>Board of County Commissioners of Boulder County v. Suncor Energy (U.S.A.) Inc.</i> , 965 F.3d 792 (10th Cir. 2020) .....	4, 5
<i>Bryant v. Ford Motor Co.</i> , 886 F.2d 1526 (9th Cir. 1989) .....	3
<i>City of Milwaukee v. Illinois</i> , 451 U.S. 304 (1981).....	5
<i>Colorado River Water Conservation District v. United States</i> , 424 U.S. 800 (1976).....	7
<i>Illinois v. City of Milwaukee</i> , 406 U.S. 91 (1972).....	5
<i>Int’l Paper Co. v. Ouellette</i> , 479 U.S. 481 (1987).....	5
<i>Lu Junhong v. Boeing Co.</i> , 792 F.3d 805 (7th Cir. 2015) .....	3
<i>Mata v. Lynch</i> , 576 U.S. 143 (2015).....	7
<i>Mayor &amp; City Council of Baltimore v. BP p.l.c.</i> , 952 F.3d 452 (4th Cir. 2020) .....	4, 5
<i>Patel v. Del Taco, Inc.</i> , 446 F.3d 996 (9th Cir. 2006) .....	2
<i>Yamaha Motor Corp., U.S.A. v. Calhoun</i> , 516 U.S. 199 (1996).....	4, 5

**TABLE OF AUTHORITIES**  
*(continued)*

	<u>Page(s)</u>
<b>Statutes</b>	
28 U.S.C. § 1442.....	2, 3
28 U.S.C. § 1447(d).....	5
<b>Rules</b>	
9th Cir. R. 41-1 .....	6
Fed. R. App. P. 41(b) .....	3
Fed. R. App. P. 41(d)(1).....	3
S. Ct. R. 10(a).....	4
S. Ct. R. 10(c).....	4

## INTRODUCTION

Pursuant to Federal Rule of Appellate Procedure 41(d)(1), Defendants-Appellants respectfully move this Court to stay issuance of the mandate pending the filing and disposition of a timely petition for a writ of certiorari with the Supreme Court of the United States. A stay is warranted because Defendants' petition for certiorari will raise a substantial question that has divided the circuits, namely, whether a court of appeals has jurisdiction under 28 U.S.C. § 1447(d) to review the entire remand order in a case removed in part under 28 U.S.C. §§ 1442 or 1443, or whether appellate jurisdiction is limited to those two grounds for removal. At least one such petition for certiorari is currently pending before the Supreme Court and will likely be acted upon at the beginning of the Court's October Term. *See BP p.l.c. v. Mayor & City Council of Baltimore*, No. 19-1189 (distributed for Conference on Sept. 29, 2020).

Absent a stay, these six cases may be remanded to four different California state courts based on the Court's conclusion that removal was not proper under 28 U.S.C. § 1442, even though the Court has not considered whether removal was proper on any of the other grounds presented in Defendants' notice of removal. That potential harm amply justifies a stay of the mandate. Plaintiffs-Appellees oppose this motion.

## BACKGROUND

Plaintiffs filed six separate actions against more than 30 energy companies in California state court, alleging that “the dominant cause of global warming and sea level rise” is worldwide “greenhouse gas pollution,” ER216, and that “Defendants, through their extraction, promotion, marketing, and sale of their fossil fuel products, caused approximately 20% of global fossil fuel product-related CO<sub>2</sub> between 1965 and 2015, with contributions currently continuing unabated,” ER247. Asserting numerous causes of action under California tort law, including for public and private nuisance, Plaintiffs demand compensatory and punitive damages, disgorgement of profits, abatement of the alleged nuisances, and other relief. ER292–312.

Defendants removed the actions to the Northern District of California. The notices of removal asserted seven independent grounds for federal jurisdiction, including the federal-officer removal statute, 28 U.S.C. § 1442. ER145–47. Plaintiffs filed a motion to remand, which the district court granted. ER5–6.

The panel dismissed Defendants’ appeal in all but one respect. Citing this Court’s decision in *Patel v. Del Taco, Inc.*, 446 F.3d 996 (9th Cir. 2006), the panel held that, under 28 U.S.C. § 1447(d), it “ha[d] jurisdiction to review [Defendants’] appeal to the extent the remand order addresses § 1442(a)(1), but [it] lack[ed] jurisdiction to review their appeal from the portions of the remand order considering the . . . other bases for subject-matter jurisdiction.” Op. 19. The panel acknowledged

that the Seventh Circuit had reached the opposite conclusion in *Lu Junhong v. Boeing Co.*, 792 F.3d 805 (7th Cir. 2015)—and even stated that, “[w]ere [it] writing on a clean slate, [it] might conclude that *Lu Junhong* provides a more persuasive interpretation of § 1447(d) than *Patel*.” Op. 23. But the panel found itself “bound by *Patel* until abrogated by intervening higher authority.” *Id.*

Defendants filed a petition for rehearing en banc on July 9, 2020. Dkt. 170. On August 4, 2020, the Court denied Defendants’ petition. Dkt. 235. Absent a stay, the mandate will issue on August 11, 2020. Fed. R. App. P. 41(b).

## ARGUMENT

This Court may stay the mandate when a petition for certiorari “would present a substantial question and . . . there is good cause for a stay.” Fed. R. App. P. 41(d)(1). “No exceptional circumstances need be shown to justify a stay.” *Bryant v. Ford Motor Co.*, 886 F.2d 1526, 1528 (9th Cir. 1989).

### **I. Defendants’ Petition Will Present A Substantial Question**

Defendants’ petition for a writ of certiorari will present the question whether 28 U.S.C. § 1447(d) permits a court of appeals to review any issue encompassed in a district court’s order remanding a removed case to state court when the removing defendant premised removal in part on the federal-officer removal statute, 28 U.S.C. § 1442. As this Court and others have acknowledged, there is a conflict among the federal courts of appeals on this important question of appellate jurisdiction. *See*

Op. 19–23; *Board of County Commissioners of Boulder County v. Suncor Energy (U.S.A.) Inc.*, 965 F.3d 792 (10th Cir. 2020); *Mayor & City Council of Baltimore v. BP p.l.c.*, 952 F.3d 452, 460 (4th Cir. 2020), *petition for cert. filed*, No. 19-1189 (Mar. 31, 2020). The existence of this conflict alone indicates that there is a considerable likelihood that the Supreme Court will grant certiorari. *See* S. Ct. R. 10(a) (“the reasons the Court considers” in granting review include whether “a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals”).

A stay is also warranted because this recurring and important issue has not been specifically addressed by the Supreme Court, and the approach adopted in *Patel* and followed by the panel is in clear tension with the Supreme Court’s decision in a closely analogous jurisdictional context. *See* S. Ct. R. 10(c) (noting that review may be proper where “a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court”).

In *Yamaha Motor Corp., U.S.A. v. Calhoun*, 516 U.S. 199 (1996), the Supreme Court held that 28 U.S.C. § 1292(b), which confers appellate jurisdiction over “order[s]” certified by the district court for interlocutory review, confers appellate jurisdiction to “address any issue fairly included within the certified order because



it is the *order* that is appealable, and not the controlling question identified by the district court.” *Id.* at 205. Here, too, the statute in question confers appellate jurisdiction over “*an order* remanding a case to the State court from which it was removed.” 28 U.S.C. § 1447(d) (emphasis added). Yet *Patel* held that jurisdiction does *not* extend to the order, but only to specific *issues* addressed *in* the order, contrary to the reasoning in *Yamaha*.

This question is recurring and important. It affects the congressionally conferred rights of litigants to a federal judicial forum, and it has arisen in multiple federal courts of appeals in this year alone. *See BP*, 952 F.3d at 458–61; *Suncor Energy (U.S.A.) Inc.*, 2020 WL 3777996, at \*3–17; *see also Rhode Island v. Shell Oil Prods. Co., LLC, et al.*, No. 19-1818 (1st Cir. argument scheduled Sept. 11, 2020).

It is also potentially dispositive in this case. Defendants’ lead argument in favor of removal is that Plaintiffs’ claims “arise under” federal law because they are necessarily governed by federal common law as a matter of constitutional structure. This argument has substantial support in Supreme Court precedent. *See, e.g., Illinois v. City of Milwaukee*, 406 U.S. 91, 103 (1972) (“When we deal with air and water in their ambient or interstate aspects, there is a federal common law.”); *City of Milwaukee v. Illinois*, 451 U.S. 304, 313 n.7 (1981) (“[I]f federal common law exists, it is because state law cannot be used.”); *Int’l Paper Co. v. Ouellette*, 479 U.S. 481, 488

(1987) (“[I]nterstate water pollution is a matter of federal, not state, law.”); *American Electric Power Co. v. Connecticut*, 564 U.S. 410, 421 (2011) (“Environmental protection is undoubtedly an area ‘within national legislative power,’ one in which federal courts may fill in ‘statutory interstices,’ and, if necessary, even ‘fashion federal law.’”). And the United States recently filed an amicus brief in support of a pending petition for rehearing and rehearing *en banc* in a closely related case making precisely this point, and emphasizing the importance of this jurisdictional issue. *See* Brief of the United States as *Amicus Curiae* in Support of the Petition for Rehearing, *City of Oakland v. B.P. p.l.c.*, No. 18-16663 (9th Cir.), Dkt. 198 at 4 (“Here, the interstate pollution claims asserted by the Cities arise under federal common law.”); *id.* at 5 (“Such claims present important questions relating to constitutional structure, federal statutes, separation of powers, and federalism; it is essential that they be afforded a federal forum.”).

As a result, Defendants’ petition will present a substantial question, and will not be “filed merely for delay.” 9th Cir. R. 41-1.

## **II. There Is Good Cause To Stay The Mandate**

Absent a stay of the mandate, this action may be remanded to state court for further proceedings while the Supreme Court considers whether to grant Defendants’

petition for a writ of certiorari.<sup>\*</sup> If a remand occurs and the panel’s decision is ultimately reversed, not only will Defendants have been denied (for months, if not years) the federal forum to which they are entitled, but this Court will have forsworn its “virtually unflagging obligation . . . to exercise the jurisdiction given [it].” *Colorado River Water Conservation District v. United States*, 424 U.S. 800, 817 (1976); *see, e.g., Mata v. Lynch*, 576 U.S. 143, 150 (2015).

Moreover, Defendants could be forced to incur substantial burden and expense litigating these six cases in four different state courts, which could entail briefing and resolution of various threshold and dispositive motions as well as potentially extensive discovery. Those harms will be irreparable if the remand is ultimately determined to be improper and further proceedings in federal court are required. The interests of judicial economy would also be served by a stay, as there is no need to recommence proceedings in state court while the question of federal jurisdiction has not yet been finally resolved.

---

<sup>\*</sup> In the proceedings below, the district court stayed issuance of the remand orders pending appeal. *See* Nos. 17-cv-4929+ (N.D. Cal.), Dkt. 240; Nos. 18-cv-450+ (N.D. Cal.), Dkt. 142. In Defendants’ view, those stays extend through the disposition of a petition for a writ of certiorari by the Supreme Court. Out of an abundance of caution, Defendants are seeking clarification from the district court regarding the scope of the stay orders.

## **CONCLUSION**

This Court should stay issuance of the mandate pending the filing and disposition of a timely petition for writ of certiorari.

Dated: August 10, 2020

Respectfully submitted,

By: /s/ Jonathan W. Hughes

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

Jonathan W. Hughes  
ARNOLD & PORTER KAYE  
SCHOLER LLP  
Three Embarcadero Center, 10th Floor  
San Francisco, California 94111-4024  
Telephone: (415) 471-3100  
Facsimile: (415) 471-3400  
E-mail: jonathan.hughes@apks.com

Matthew T. Heartney  
John D. Lombardo  
ARNOLD & PORTER KAYE  
SCHOLER LLP  
777 South Figueroa Street, 44th Floor  
Los Angeles, California 90017-5844  
Telephone: (213) 243-4000  
Facsimile: (213) 243-4199  
E-mail: matthew.heartney@apks.com  
E-mail: john.lombardo@apks.com

Philip H. Curtis  
Nancy Milburn  
ARNOLD & PORTER KAYE  
SCHOLER LLP  
250 West 55th Street  
New York, NY 10019-9710  
Telephone: (212) 836-8383  
Facsimile: (212) 715-1399  
E-mail: philip.curtis@apks.com  
E-mail: nancy.milburn@apks.com

*Attorneys for Defendants BP P.L.C.  
and BP AMERICA, INC.*

Theodore J. Boutrous, Jr.  
Thomas G. Hungar  
Andrea E. Neuman  
William E. Thomson  
Joshua S. Lipshutz  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: (213) 229-7000  
Facsimile: (213) 229-7520  
E-mail: tboutrous@gibsondunn.com  
E-mail: aneuman@gibsondunn.com  
E-mail: wthomson@gibsondunn.com  
E-mail: jlipshutz@gibsondunn.com

Herbert J. Stern  
Joel M. Silverstein  
STERN & KILCULLEN, LLC  
325 Columbia Turnpike, Suite 110  
Florham Park, NJ 07932-0992  
Telephone: (973) 535-1900  
Facsimile: (973) 535-9664  
E-mail: hstern@sgklaw.com  
E-mail: jsilverstein@sgklaw.com

Neal S. Manne  
Johnny W. Carter  
Erica Harris  
Steven Shepard  
SUSMAN GODFREY LLP  
1000 Louisiana, Suite 5100  
Houston, TX 77002  
Telephone: (713) 651-9366  
Facsimile: (713) 654-6666  
E-mail: nmanne@susmangodfrey.com

E-mail: [jcarter@susmangodfrey.com](mailto:jcarter@susmangodfrey.com)  
E-mail: [eharris@susmangodfrey.com](mailto:eharris@susmangodfrey.com)  
E-mail: [shepard@susmangodfrey.com](mailto:shepard@susmangodfrey.com)

*Attorneys for Defendants CHEVRON  
CORP. and CHEVRON U.S.A., INC.*

\*\* Pursuant to Ninth Circuit L.R. 25-5(e), counsel attests that all other parties on whose behalf the filing is submitted concur in the filing's contents

By: /s/ Sean C. Grimsley

Sean C. Grimsley  
Jameson R. Jones  
BARTLIT BECK LLP  
1801 Wewatta St., Suite 1200  
Denver, Colorado 80202  
Telephone: 303-592-3123  
Facsimile: 303-592-3140  
Email: sean.grimsley@bartlitbeck.com  
Email: jameson.jones@bartlitbeck.com

Megan R. Nishikawa  
KING & SPALDING LLP  
101 Second Street, Suite 2300  
San Francisco, California 94105  
Telephone: (415) 318-1200  
Facsimile: (415) 318-1300  
Email: mnishikawa@kslaw.com

Tracie J. Renfroe  
Carol M. Wood  
KING & SPALDING LLP  
1100 Louisiana Street, Suite 4000  
Houston, Texas 77002  
Telephone: (713) 751-3200  
Facsimile: (713) 751-3290  
Email: trenfroe@kslaw.com  
Email: cwood@kslaw.com

Attorneys for Defendants  
CONOCOPHILLIPS and CONOCOPHILLIPS COMPANY

By: /s/ Dawn Sestito

M. Randall Oppenheimer  
Dawn Sestito  
O'MELVENY & MYERS LLP  
400 South Hope Street  
Los Angeles, California 90071-2899  
Telephone: (213) 430-6000  
Facsimile: (213) 430-6407  
E-Mail: roppenheimer@omm.com  
E-Mail: dsestito@omm.com

Theodore V. Wells, Jr.  
Daniel J. Toal  
Jaren E. Janghorbani  
PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP  
1285 Avenue of the Americas  
New York, New York 10019-6064  
Telephone: (212) 373-3000  
Facsimile: (212) 757-3990  
E-Mail: twells@paulweiss.com  
E-Mail: dtoal@paulweiss.com  
E-Mail: jjanghorbani@paulweiss.com

*Attorneys for Defendant  
EXXON MOBIL CORPORATION*

By: /s/ David C. Frederick

David C. Frederick  
Brendan J. Crimmins  
KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, DC 20036  
Telephone: (202) 326-7900  
Facsimile: (202) 326-7999  
E-mail: dfrederick@kellogghansen.com  
E-mail: bcrimmins@kellogghansen.com

*Attorneys for Defendants ROYAL  
DUTCH SHELL PLC and SHELL OIL  
PRODUCTS COMPANY LLC*

By: /s/ Kevin Orsini

Kevin Orsini  
Vanessa A. Lavelly  
CRAVATH, SWAINE & MOORE  
LLP  
825 Eighth Avenue  
New York, NY 10019  
Tel: (212) 474-1000  
Fax: (212) 474-3700  
E-mail: korsini@cravath.com  
E-mail: vlavelly@cravath.com

*Attorneys for Defendant  
ANADARKO PETROLEUM CORPORATION*

By: /s/ Steven M. Bauer

Steven M. Bauer  
Margaret A. Tough  
LATHAM & WATKINS LLP  
505 Montgomery Street, Suite 2000  
San Francisco, California 94111-6538  
Telephone: (415) 391-0600  
Facsimile: (415) 395-8095  
E-mail: steven.bauer@lw.com  
E-mail: margaret.tough@lw.com

*Attorneys for Defendant  
PHILLIPS 66*

By: /s/ Patrick W. Mizell

Mortimer Hartwell  
VINSON & ELKINS LLP  
555 Mission Street Suite 2000  
San Francisco, CA 94105  
Telephone: (415) 979-6930  
E-mail: mhartwell@velaw.com

Patrick W. Mizell  
VINSON & ELKINS LLP  
1001 Fannin Suite 2300  
Houston, TX 77002  
Telephone: (713) 758-2932  
E-mail: pmizell@velaw.com

*Attorneys for Defendant  
APACHE CORPORATION*



By: /s/ David E. Cranston

David E. Cranston  
GREENBERG GLUSKER FIELDS  
CLAMAN & MACHTINGER LLP  
1900 Avenue of the Stars, 21st Floor,  
Los Angeles, CA 90067  
Telephone: (310) 785-6897  
Facsimile: (310) 201-2361  
E-mail: DCranston@green-  
bergglusker.com

*Attorneys for Defendant  
ENI OIL & GAS INC.*

By: /s/ Andrew A. Kassof

Mark McKane, P.C.  
KIRKLAND & ELLIS LLP  
555 California Street  
San Francisco, California 94104  
Telephone: (415) 439-1400  
Facsimile: (415) 439-1500  
E-mail: mark.mckane@kirkland.com

Andrew A. Kassof, P.C.  
Brenton Rogers  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Telephone: (312) 862-2000  
Facsimile: (312) 862-2200  
E-mail: andrew.kassof@kirkland.com  
E-mail: brenton.rogers@kirkland.com

*Attorneys for Defendants  
RIO TINTO ENERGY AMERICA INC.,  
RIO TINTO MINERALS, INC., and  
RIO TINTO SERVICES INC.*

By: /s/ Gregory Evans

Gregory Evans  
MCGUIREWOODS LLP  
Wells Fargo Center  
South Tower  
355 S. Grand Avenue, Suite 4200  
Los Angeles, CA 90071-3103  
Telephone: (213) 457-9844  
Facsimile: (213) 457-9888  
E-mail: gevens@mcguirewoods.com

Steven R. Williams  
Joy C. Fuhr  
Brian D. Schmalzbach  
MCGUIREWOODS LLP  
800 East Canal Street  
Richmond, VA 23219-3916  
Telephone: (804) 775-1141  
Facsimile: (804) 698-2208  
E-mail: srwilliams@mcguire-  
woods.com  
E-mail: jfuhr@mcguirewoods.com  
E-mail:  
bschmalzbach@mcguirewoods.com

*Attorneys for Defendants*  
*DEVON ENERGY CORPORATION*  
*and DEVON ENERGY PRODUCTION*  
*COMPANY, L.P.*

By: /s/ Andrew McGaan

Christopher W. Keegan  
KIRKLAND & ELLIS LLP  
555 California Street  
San Francisco, California 94104  
Telephone: (415) 439-1400  
Facsimile: (415) 439-1500  
E-mail: chris.keegan@kirkland.com

Andrew R. McGaan, P.C.  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Telephone: (312) 862-2000  
Facsimile: (312) 862-2200  
E-mail: andrew.mcgaan@kirk-  
land.com

Anna G. Rotman, P.C.  
KIRKLAND & ELLIS LLP  
609 Main Street  
Houston, Texas 77002  
Telephone: (713) 836-3600  
Facsimile: (713) 836-3601  
E-mail: anna.rotman@kirkland.com

Bryan D. Rohm  
TOTAL E&P USA, INC.  
1201 Louisiana Street, Suite 1800  
Houston, TX 77002  
Telephone: (713) 647-3420  
E-mail: bryan.rohm@total.com

*Attorneys for Defendants*  
*TOTAL E&P USA, INC. and TOTAL*  
*SPECIALTIES USA, INC.*

By: /s/ Michael F. Healy

Michael F. Healy  
SHOOK HARDY & BACON LLP  
One Montgomery St., Suite 2700  
San Francisco, CA 94104  
Telephone: (415) 544-1942  
E-mail: mfhealy@shb.com

Michael L. Fox  
DUANE MORRIS LLP  
Spear Tower  
One Market Plaza, Suite 2200  
San Francisco, CA 94105-1127  
Telephone: (415) 957-3902  
E-mail: MLFox@duanemorris.com

Attorneys for Defendant  
OVINTIV CANADA ULC  
(fka "Encana Corporation")

By: /s/ Peter Duchesneau

Craig A. Moyer  
Peter Duchesneau  
MANATT, PHELPS & PHILLIPS, LLP  
11355 West Olympic Boulevard  
Los Angeles, CA 90064-1614  
Telephone: (310) 312-4000  
Facsimile: (310) 312-4224  
E-mail: cmoyer@manatt.com  
E-mail: pduchesneau@manatt.com

Stephanie A. Roeser  
MANATT, PHELPS & PHILLIPS, LLP  
One Embarcadero Center, 30<sup>th</sup> Floor  
San Francisco, CA 94111  
Telephone: (415) 291-7400  
Facsimile: (415) 291-7474  
E-mail: sroeser@manatt.com

Nathan P. Eimer  
Lisa S. Meyer  
Pamela R. Hanebutt  
EIMER STAHL LLP  
224 South Michigan Avenue, Ste. 1100  
Chicago, IL 60604  
Telephone: (312) 660-7605  
Facsimile: (312) 961-3204  
Email: neimer@EimerStahl.com  
Email: lmeyer@EimerStahl.com  
Email: phanebutt@EimerStahl.com

Robert E. Dunn  
EIMER STAHL LLP  
99 S. Almaden Blvd., Suite 662  
San Jose, CA 95113  
Telephone: (669) 231-8755  
Email: rdunn@eimerstahl.com

*Attorneys for Defendant*  
*CITGO PETROLEUM CORPORATION*

By: /s/ J. Scott Janoe

Christopher J. Carr  
Jonathan A. Shapiro  
BAKER BOTTS L.L.P.  
101 California Street  
36th Floor, Suite 3600  
San Francisco, California 94111  
Telephone: (415) 291-6200  
Facsimile: (415) 291-6300  
Email: chris.carr@bakerbotts.com  
Email: jonathan.shapiro@bakerbotts.com

Scott Janoe  
BAKER BOTTS L.L.P.  
910 Louisiana Street  
Houston, Texas 77002  
Telephone: (713) 229-1553  
Facsimile: (713) 229 7953  
Email: scott.janoe@bakerbotts.com

Evan Young  
BAKER BOTTS L.L.P.  
98 San Jacinto Boulevard  
Austin, Texas 78701  
Telephone: (512) 322-2506  
Facsimile: (512) 322-8306  
Email: evan.young@bakerbotts.com

Megan Berge  
BAKER BOTTS L.L.P.  
701 K Street, NW  
Washington, DC 20004  
Telephone: (202) 639-1308  
Facsimile: (202) 639-1171  
Email: megan.berge@bakerbotts.com

*Attorneys for Defendants  
HESS CORPORATION, REPSOL ENERGY NORTH AMERICA CORP., and  
REPSOL TRADING USA CORP*

By: /s/ Shannon S. Broome

Shannon S. Broome  
Ann Marie Mortimer  
HUNTON ANDREWS KURTH LLP  
50 California Street, Suite 1700  
San Francisco, CA 94111  
Telephone: (415) 975-3700  
Facsimile: (415) 975-3701  
E-mail: SBroome@HuntonAK.com  
E-mail: AMortimer@HuntonAK.com

Shawn Patrick Regan  
HUNTON ANDREWS KURTH LLP  
200 Park Avenue  
New York, NY 10166-0136  
Telephone: (212) 309-1000  
Facsimile: (212) 309-1100  
E-mail: SRegan@HuntonAK.com

*Attorneys for Defendant  
MARATHON PETROLEUM CORPORATION*

By: */s/ Kevin Orsini* \_\_\_\_\_

Kevin Orsini  
Vanessa A. Lavelly  
CRAVATH, SWAINE & MOORE  
LLP  
825 Eighth Avenue  
New York, NY 10019  
Tel: (212) 474-1000  
Fax: (212) 474-3700  
E-mail: korsini@cravath.com  
E-mail: vlavelly@cravath.com

Stephen C. Lewis  
R. Morgan Gilhuly  
BARG COFFIN LEWIS & TRAPP,  
LLP  
350 California Street, 22nd Floor  
San Francisco, California 94104-1435  
Telephone: (415) 228-5400  
Facsimile: (415) 228-5450  
E-mail: slewis@bargcoffin.com  
E-mail: mgilhuly@bargcoffin.com

*Attorneys for Defendants  
OCCIDENTAL PETROLEUM CORP.  
and OCCIDENTAL CHEMICAL  
CORP.*

By: */s/ Donald W. Carlson* \_\_\_\_\_

Donald W. Carlson  
A. David Bona  
CARLSON, CALLADINE &  
PETERSON LLP  
353 Sacramento Street, 16th Floor  
San Francisco, CA 94111  
Tel: (415) 391-3911  
Fax: (415) 391-3898  
E-mail: dcarlson@ccplaw.com  
E-mail: dbona@ccplaw.com

Attorneys for Defendants  
MARATHON OIL CORPORATION  
and MARATHON OIL COMPANY