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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 CITY OF OAKLAND, a Municipal
Corporation, and THE PEOPLE OF THE
19 STATE OF CALIFORNIA, acting by and
through Oakland City Attorney BARBARA J.
PARKER,

20 Plaintiffs,

21 v.

22 BP P.L.C., a public limited company of
23 England and Wales, CHEVRON
CORPORATION, a Delaware corporation,
24 CONOCOPHILLIPS COMPANY, a Delaware
corporation, EXXON MOBIL
25 CORPORATION, a New Jersey corporation,
26 ROYAL DUTCH SHELL PLC, a public
limited company of England and Wales, and
DOES 1 through 10,

27 Defendants.
28

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

**JOINT CASE MANAGEMENT
STATEMENT**

THE HONORABLE WILLIAM H. ALSUP

1 CITY AND COUNTY OF SAN
2 FRANCISCO, a Municipal Corporation, and
3 THE PEOPLE OF THE STATE OF
4 CALIFORNIA, acting by and through the San
5 Francisco City Attorney DENNIS J.
6 HERRERA,

7 Plaintiffs,

8 v.

9 BP P.L.C., a public limited company of
10 England and Wales, CHEVRON
11 CORPORATION, a Delaware corporation,
12 CONOCOPHILLIPS COMPANY, a Delaware
13 corporation, EXXON MOBIL
14 CORPORATION, a New Jersey corporation,
15 ROYAL DUTCH SHELL PLC, a public
16 limited company of England and Wales, and
17 DOES 1 through 10,

18 Defendants.
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1 This Court set a further Case Management Conference for May 20, 2021 at 11:00 a.m. The
 2 parties provide a brief summary of the procedural history of these cases and their positions regarding
 3 how these cases should proceed.¹ Plaintiffs respectfully submit that the Court should proceed on their
 4 fully briefed, pending motions to remand and to amend the complaint. Defendants submit that the
 5 Court should continue to defer ruling on those motions until after their pending petition for a writ of
 6 certiorari is fully resolved. The parties agree, however, that the currently scheduled Case Management
 7 Conference should be continued until July 8, 2021, unless the Supreme Court grants Defendants' cer-
 8 tiorari petition in this case before that date.

9 **A. Procedural History**

10 On September 19, 2017, the People of the State of California, by and through the San Francisco
 11 City Attorney, filed their Complaint in the Superior Court for the County of San Francisco, and the
 12 People of the State of California, by and through the Oakland City Attorney, filed their Complaint in
 13 the Superior Court for the County of Alameda.

14 Defendants removed these cases on October 20, 2017. *See* Dkt. 1.² On February 27, 2018, this
 15 Court denied Plaintiffs' motions to remand, concluding that their claims necessarily arise under federal
 16 common law. *See* Dkt. 134. On June 25, 2018, this Court granted Defendants' motions to dismiss for
 17 failure to state a claim under federal common law, *see* Dkt. 283, and on July 27, 2018, it granted mo-
 18 tions to dismiss for lack of personal jurisdiction with respect to four Defendants, *see* Dkt. 287.

19 On August 12, 2020, the Ninth Circuit vacated this Court's order denying Plaintiffs' motions
 20 to remand the instant actions to state court, holding that Plaintiffs' "state-law claim for public nuisance
 21 does not arise under federal law for purposes of 28 U.S.C. § 1331." *City of Oakland v. BP PLC*, 969
 22 F.3d 895, 900 (9th Cir. 2020). But because this Court "did not address the alternative bases for re-
 23 moval" asserted in Defendants' notice of removal, the Ninth Circuit "remand[ed] these cases to the
 24 district court to determine whether there was an alternative basis for jurisdiction." *Id.* at 911.

25 _____
 26 ¹ In joining this Case Management Statement, Defendants BP P.L.C., ConocoPhillips, Exxon Mobil
 27 Corporation, and Royal Dutch Shell PLC, do not waive any argument or defense regarding the
 28 Court's lack of personal jurisdiction over them, nor do they seek to vacate or alter the Court's
 previous personal-jurisdiction order under Rule 12(b)(2).

² All docket citations are to *City of Oakland v. BP P.L.C.*, No. 3:17-cv-6011.

1 Defendants filed a petition for a writ of certiorari on January 8, 2021. *See Chevron Corp. v.*
2 *City of Oakland*, No. 20-1089 (U.S.). Plaintiffs' opposition was filed on May 10, 2021, and Defendants
3 expect to file a reply before distribution of the briefs, which is scheduled to occur on May 25, 2021.
4 The petition will thereafter be considered by the Court no earlier than at the Conference scheduled for
5 June 10, 2021. *See* S. Ct. R. 15.5; [https://www.supremecourt.gov/casedistribution/casedistribution-](https://www.supremecourt.gov/casedistribution/casedistribution-schedule.aspx)
6 [schedule.aspx](https://www.supremecourt.gov/casedistribution/casedistribution-schedule.aspx). A ruling on the petition will issue no earlier than the Court's normal non-argument
7 session scheduled for the following Monday, June 14, 2021. The last non-argument session of the
8 Term at which the Court could rule on the petition is scheduled for Monday, June 28, 2021, with a
9 ruling likely issued that day or shortly thereafter.

10 This Court held a Case Management Conference on December 16, 2020, in which it set a brief-
11 ing schedule for Plaintiffs' renewed motions to remand and motions to amend the complaints. *See*
12 Dkt. 333. A motion hearing was set for April 22, 2021 at 8:00 a.m. *See* Dkt. 334.

13 On April 5, 2021, the Court vacated that hearing and set a Case Management Conference for
14 May 20, 2021 at 11:00 a.m. The Court's Order stated: "In light of the pending petition for certiorari in
15 this case, the April 22 hearing is VACATED. A case management conference is SET for MAY 20 AT
16 11:00 A.M." Dkt. 361.

17 **B. The Parties' Positions**

18 Because Plaintiffs' motions to remand and to amend their complaints are fully briefed, Plaintiffs
19 respectfully request that the Court set a hearing date at its earliest convenience and issue a ruling on
20 those motions without further delay. Given that the Court set the current Case Management Conference
21 "[i]n light of the pending petition for certiorari in this case," however, and given that the Supreme
22 Court will rule on the petition no earlier than June 14, 2021, the parties agree that the Court should
23 defer the Conference until after the Supreme Court's last session for the current Term and any issued
24 rulings, which likely will occur on or shortly after the June 28, 2021 session. If the Supreme Court has
25 denied Defendants' certiorari petition or has not resolved it, the Case Management Conference should
26 go forward on Thursday, July 8, 2021, or as soon thereafter as the Court is available. If the Supreme
27 Court grants the petition before that date, the Case Management Conference should be continued
28 pending resolution of the petition on the merits.

1 Dated: May 12, 2021

Respectfully submitted,

2 CITY OF OAKLAND

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3 By: /s/ Malia McPherson

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