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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.  
20 PARKER,

21 Plaintiffs,

22 v.

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

28 Defendants.

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

**NOTICE OF SUPPLEMENTAL  
AUTHORITY**

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  
8 Plaintiffs,

9 v.

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

19 Defendants.  
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1 Defendant Chevron Corporation respectfully submits as supplemental authority the U.S. Su-  
2 preme Court’s decision today in *BP P.L.C. v. Mayor & City Council of Baltimore*, 593 U.S. \_\_\_, 2021  
3 WL 1951777 (2021) (attached hereto as Exhibit A), which has a direct impact on this and numerous  
4 other climate change cases that have been removed to federal court.<sup>1</sup> In *Baltimore*, the Supreme Court  
5 considered whether “28 U.S.C. 1447(d) permit[s] a court of appeals to review any issue in a district  
6 court order remanding a case to state court where the defendant premised removal in part on the federal  
7 officer removal statute, §1442, or the civil rights removal statute, §1443.” *Id.* at \*2. The Court an-  
8 swered in the affirmative, reasoning that “the relevant portion of §1447(d) provides that ‘an *order*  
9 remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of  
10 this title shall be reviewable by appeal,’” and the plain meaning of the term “order” refers to “a ‘written  
11 direction or command delivered by . . . a court or judge.’” *Id.* at \*4 (emphasis added). Therefore,  
12 “when a district court’s removal order rejects all of the defendants’ grounds for removal, §1447(d)  
13 authorizes a court of appeals to review each and every one of them.” *Id.* Because the lower court  
14 interpreted the statute to extend appellate jurisdiction only to the enumerated federal officer and civil  
15 rights grounds for removal, the Supreme Court vacated and remanded so that the court of appeals can  
16 consider all of the defendants’ grounds for removal.

17 *Baltimore* is important here because it overrules the Ninth Circuit’s holding in a similar climate  
18 change case that it “may review the district court’s remand order only to the extent it addresses  
19 § 1442(a)(1).” *County of San Mateo v. Chevron Corp.*, 960 F.3d 586, 598 (9th Cir. 2020), *petition for*  
20 *cert. pending*, No. 20-884 (U.S.). As a result of *Baltimore*, the Ninth Circuit now must consider—for  
21 the first time—whether cases like this one are removable under, *inter alia*, the Outer Continental Shelf  
22 Lands Act and federal enclave jurisdiction. *See Baltimore*, 2021 WL 1951777, at \*4 (“Normally, fed-  
23 eral jurisdiction is not optional; subject to exceptions not relevant here, ‘courts are obliged to decide  
24 cases within the scope of federal jurisdiction’ assigned to them. So the district court wasn’t at liberty  
25 to remove the City’s case from its docket until it determined that it lacked any authority to entertain  
26

27 \_\_\_\_\_  
28 <sup>1</sup> This Court has already found that several Defendants are not subject to personal jurisdiction. This  
is submitted subject to, and without waiver of, that jurisdictional finding.

1 the suit.”). The Ninth Circuit’s resolution of these questions will provide substantial guidance regard-  
2 ing the proper forum in which this case should proceed.

3  
4 Respectfully submitted,

5 Dated: May 17, 2021

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

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