

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

STATE OF MINNESOTA, BY ITS
ATTORNEY GENERAL, KEITH ELLISON,

Plaintiff,

v.

AMERICAN PETROLEUM INSTITUTE,
EXXON MOBIL CORPORATION,
EXXONMOBIL OIL CORPORATION,
KOCH INDUSTRIES, INC., FLINT HILLS
RESOURCES LP, and FLINT HILLS
RESOURCES PINE BEND,

Defendants.

Case No. 20-cv-1636-JRT-HB

**DEFENDANTS' RESPONSE TO PLAINTIFF'S
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants write in response to Plaintiff's notice regarding the Supreme Court's denial of certiorari in *Chevron Corp. v. Oakland*, No. 20-1089, 2021 WL 2405350 (U.S. June 14, 2021).¹ Although Plaintiff asserts that the Court "declined to disturb" the Ninth Circuit's decision, "the denial of a writ of certiorari imports no expression of opinion upon the merits of the case, as the bar has been told many times." *Missouri v. Jenkins*, 515 U.S. 70, 85 (1995) (citation omitted). Accordingly, the Supreme Court's denial of review in *Oakland* does not undermine the compelling grounds for federal jurisdiction presented in Defendants' appeal to the Eighth Circuit.

¹ By filing this response, Defendants do not waive any right, defense, affirmative defense, or objection, including any challenges to personal jurisdiction over Defendants.

DATE: June 24, 2021

Respectfully submitted,

/s/ Jerry W. Blackwell

Jerry W. Blackwell (MN #186867)
G. Tony Atwal (MN #331636)
BLACKWELL BURKE P.A.
431 South Seventh Street, Suite 2500
Minneapolis, MN 55415
Tel: (612) 343-3232
E-mail: blackwell@blackwellburke.com
E-mail: tatwal@blackwellburke.com

Patrick J. Conlon (*pro hac vice*)
EXXON MOBIL CORPORATION
22777 Springwoods Village Parkway
Spring, TX 77389
Tel: (832) 624-6336
E-mail:
patrick.j.conlon@exxonmobil.com

Theodore V. Wells Jr. (*pro hac vice*)
Daniel J. Toal (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON
& GARRISON, LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Tel: (212) 373-3000
E-mail: twells@paulweiss.com
E-mail: dtoal@paulweiss.com

Justin Anderson (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON
& GARRISON, LLP
2001 K Street, NW
Washington, DC 20006-1047
Tel: (202) 223-7321
E-mail: janderson@paulweiss.com

Attorneys for Defendants
EXXON MOBIL CORPORATION and
EXXONMOBIL OIL CORPORATION

Todd Noteboom (MN #240047)
Andrew W. Davis (MN #386634)
Peter J. Schwingler (MN #388909)
STINSON LLP
50 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Tel: (612) 335-1500
E-mail: todd.noteboom@stinson.com

Andrew M. Luger (MN #0189261)
JONES DAY
90 South Seventh Street, Suite 4950
Minneapolis, MN 55402
Tel: (612) 217-8862
E-mail: aluger@jonesday.com

Debra R. Belott (*pro hac vice*)
JONES DAY
51 Louisiana Avenue, NW
Washington, D.C. 20001-2113
Tel: (202) 879-3689
E-mail: dbelott@jonesday.com

William A. Burck (*pro hac vice*)
QUINN EMANUEL LLP
1300 I Street, NW, Suite 900
Washington, D.C. 20005-4107
Tel: (202) 538-8120
E-mail: williamburck@quinnemanuel.com

Stephen A. Swedlow (*pro hac vice*)
QUINN EMANUEL LLP
191 North Wacker Drive, Suite 2700
Chicago, IL 60606
Tel: (312) 705-7488
E-mail:
stephenswedlow@quinnemanuel.com

Thomas H. Boyd (MN #200517)
Eric F. Swanson (MN #188128)
WINTHROP & WEINSTINE, P.A.
225 South Sixth Street
Suite 3500 Cappella Tower
Minneapolis, MN 55402
Tel: (612) 604-6400
E-mail: tboyd@winthrop.com
E-mail: eswanson@winthrop.com

Attorneys for Defendants
KOCH INDUSTRIES, INC.,
FLINT HILLS RESOURCES LP, and
FLINT HILLS RESOURCES PINE BEND

Andrew G. McBride (*pro hac vice*)
MCGUIREWOODS LLP
2001 K Street NW, Suite 400
Washington, D.C. 20006-1040
Tel: (202) 857-2487
E-mail: amcbride@mcguirewoods.com

Brian D. Schmalzbach (*pro hac vice*)
MCGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219-3916
Tel: (804) 775-4746
E-mail:
bschmalzbach@mcguirewoods.com

Attorneys for Defendant
AMERICAN PETROLEUM INSTITUTE