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14 *and Chevron U.S.A., Inc.*

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA, acting by and through the
16 Oakland City Attorney,

16 Plaintiff,

17 v.

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

22 Defendants.

24 CHEVRON CORP.,

25 Third Party Plaintiff,

26 v.

27 STATOIL ASA,

28 Third Party Defendant.

CASE NO. 17-cv-06011-WHA

**THIRD-PARTY COMPLAINT OF
DEFENDANT CHEVRON CORPORATION
FOR INDEMNITY AND CONTRIBUTION
AGAINST THIRD-PARTY DEFENDANT
STATOIL ASA**

1 THE PEOPLE OF THE STATE OF
2 CALIFORNIA, acting by and through the San
3 Francisco City Attorney,

4 Plaintiff,

5 v.

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

15 Defendants.

16
17 CHEVRON CORP.,

18 Third Party Plaintiff,

19 v.

20 STATOIL ASA,

21 Third Party Defendant.

CASE NO. 17-cv-06012-WHA

**THIRD-PARTY COMPLAINT OF
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FOR INDEMNITY AND CONTRIBUTION
AGAINST THIRD-PARTY DEFENDANT
STATOIL ASA**

22 Pursuant to Rule 14 of the Federal Rules of Civil Procedure, Defendant and Third-Party Plain-
23 tiff Chevron Corporation (“Chevron”), brings this action against Third-Party Defendant Statoil ASA
24 (“Statoil”), which is or may be liable to Chevron for part of the claims asserted against it in the com-
25 plaints filed by the plaintiffs (“Plaintiffs”) in these two related actions (“these actions”). Subject to
26 and without waiving its rights, privileges and defenses to Plaintiffs’ claims, Chevron alleges as fol-
27 lows:

Introduction

28 1. The benefits from fossil fuels to our society generally—and specifically to Norway,
the majority owner of Statoil, as well as many other sovereigns who produce, promote and use fossil
fuels—have been tremendous.

2. In this case, Plaintiffs allege that use of fossil fuels is a “nuisance” causing global
warming. As the United States has previously explained, Plaintiffs’ boundless tort theory is baseless;

1 indeed, it “could provide virtually every person, organization, company, or government with a claim
2 against virtually every other person, organization, company or government, presenting unique and
3 difficult challenges for the federal courts.”¹

4 3. While Chevron agrees that the Plaintiffs’ claims are meritless, for the reasons stated
5 below, Statoil (an agency or instrumentality of Norway)—as well as potentially the many other sov-
6 ereign governments that use and promote fossil fuels—must be joined as third-party defendants in
7 this matter.

8 The Parties

9 4. The plaintiffs in these two related actions are (i) the People of California, by and
10 through the Oakland City Attorney, and (ii) the People of California, by and through San Francisco
11 City Attorney Dennis J. Herrera (collectively, “Plaintiffs”).

12 5. Defendant and third party plaintiff Chevron Corporation is a corporation organized
13 and existing under the laws of State of Delaware, with its principal place of business in San Ramon,
14 California.

15 6. Third-party defendant Statoil is an international, vertically integrated energy company
16 incorporated in the Kingdom of Norway and headquartered in Stavanger, Norway. The Norwegian
17 State is the majority shareholder in Statoil. Statoil’s operations consist of multiple segments, includ-
18

19
20
21 ¹ Brief for the Tennessee Valley Authority as Respondents Supporting Petitioners at 37, *American*
22 *Electric Power Co. Inc. v. State of Connecticut*, No. 10-74 (Jan. 2011); *id.* at 17, 37 (citing the ex-
23 traordinary “breadth” of potential defendants in common-law suits aimed at global climate change as
24 one of many reasons why such suits should be rejected). A finding that Plaintiffs’ allegations against
25 Chevron and the other named Defendants in these actions are true and sufficient would implicate a
26 multitude of domestic and international actors as parties allegedly responsible for a portion of the in-
27 juries and damages Plaintiffs claim, either on the same basis as they would implicate Chevron, or, in
28 the case of users and emitters of greenhouse gases, a more direct basis. These include other fossil fuel
producers (e.g., the numerous unnamed fossil fuel companies (including others that are agencies or
instrumentalities of sovereign foreign states), the United States, and numerous states, including Cali-
fornia, *see* California Public Resources Code § 3106(d)); *promoters* (e.g., the unnamed manufactur-
ers of automobiles, aircraft, heavy machinery, farm equipment, home and commercial heating
equipment, etc.); and *emitters* (e.g., Plaintiffs themselves, private entities, and individuals around the
world who actually consume and burn the fossil fuels that Plaintiffs allege give rise to global warm-
ing and the sea-level rise of which Plaintiffs complain). Accordingly, this third-party complaint is one
of many that Chevron expects to file should this case proceed past motions to dismiss.

1 ing exploration, production, extraction, marketing, processing, and technology support of its fossil
2 fuel products, which include both petroleum and natural gas products.

3 7. Statoil is a “foreign state” as defined in 28 U.S.C. § 1603(a) because it is an “agency
4 or instrumentality of a foreign state” as defined in 28 U.S.C. § 1603(b).

5 **Jurisdiction and Venue**

6 8. This Court has subject matter jurisdiction over the two related underlying actions pur-
7 suant to 28 U.S.C. § 1331. This Court has subject matter jurisdiction over this third party action pur-
8 suant to 28 U.S.C. § 1330.

9 9. Because, as further alleged within, the acts for which Statoil is or may be liable to
10 Chevron for part of the claims asserted against it by Plaintiffs in these actions consist of “commercial
11 activity” described in 28 U.S.C. § 1605(a)(2), Statoil is not immune from the jurisdiction of this
12 Court.

13 10. Venue is proper in this District to the extent venue is proper for the original claims
14 against Chevron. Venue also is proper in this District pursuant to 28 U.S.C. § 1391(f)(1) because a
15 substantial part of the events or omissions giving rise to Plaintiffs’ claims against Chevron for which
16 Statoil is or may be liable allegedly occurred here, and a substantial part of the property that is the
17 subject of the action is situated here.

18
19 **Plaintiffs’ Allegations and Claims Against Chevron**

20 11. Chevron does not by pleading these third-party claims admit any allegation of fact or
21 law in Plaintiffs’ complaints in these actions.

22 12. In their complaints, Plaintiffs allege that the “production and promotion of massive
23 quantities of fossil fuels” by “Defendants, both individually and collectively” has “substantial[ly]
24 contribut[ed] to global warming-induced sea level rise and ... attendant injuries and threatened inju-
25 rries” to Plaintiffs, which are “indivisible injuries.” Oakland Complaint ¶ 95; San Francisco Com-
26 plaint ¶ 96. Based on those allegations, Plaintiffs assert a single cause of action, for public nuisance
27 on behalf of the People of the State of California. Chevron denies that Plaintiffs are entitled to any
28

1 relief on their Complaints. However, in the event that Chevron is held liable to Plaintiffs, Chevron is
2 entitled to indemnity and/or contribution from Statoil.

3 13. Plaintiffs' complaints in these actions include the following further allegations:

- 4 a. "The use of fossil fuels – oil, natural gas and coal – is the primary source of the greenhouse
5 gas pollution that causes global warming, a point that scientists settled years ago. Defendants
6 have produced massive amounts of fossil fuels for many years." Both Complaints ¶ 2; *accord*,
7 *e.g.*, Oakland Complaint ¶¶ 38-51, 52-55; San Francisco Complaint ¶¶ 38-52, 53-56.
- 8 b. Defendants "sponsored public relations campaigns, either directly or through the API [the
9 American Petroleum Institute, a petroleum industry trade association], or other groups, to de-
10 ny and discredit the mainstream scientific consensus on global warming, downplay the risks
11 of global warming" Both Complaints ¶ 6; *accord, e.g.*, Oakland Complaint ¶¶ 63-68, 72-73,
12 77; San Francisco Complaint ¶¶ 64-69, 73-74, 78.
- 13 c. "Defendants are substantial contributors to the public nuisance of global warming that is caus-
14 ing injury to the People and thus are jointly and severally liable." Both Complaints ¶ 10; *ac-*
15 *cord, e.g.*, Oakland Complaint ¶¶ 95-98; San Francisco Complaint ¶¶ 96-99; *see also* both
16 Complaints, p. 39 ("WHEREFORE, the People pray for judgment and an order against each
17 Defendant, jointly and severally, as follows: 1. Finding Defendants BP, Chevron, Cono-
18 coPhillips, Exxon, and Shell jointly and severally liable for causing, creating, assisting in the
19 creation, of, contributing to, and/or maintaining a public nuisance").

20 **Statoil Is or May Be Liable to Chevron for Part**
21 **of the Claims Asserted Against It in these Actions**

22 14. The claims set forth in this Third-Party Complaint arise out of the same transactions,
23 occurrences and set of circumstances as set forth in Plaintiffs' complaints in these actions.

24 15. The thrust of Plaintiffs' complaints is a misguided attempt to blame Chevron's pro-
25 duction and promotion of fossil fuels for global climate change, even though Plaintiffs concede that
26 Chevron did not violate any law, rule, statute, or regulation and that it is not the production, but rather
27 the burning or use of such fossil fuels by end-users, that causes the release of greenhouse gases into
28 the atmosphere.

1 16. Chevron primarily is a producer of fossil fuels, not a user or burner of such fuels.
2 Greenhouse gases generally are not released from fossil fuels until the fuels are burned or otherwise
3 consumed. As Plaintiffs themselves allege, “[t]he *use* of fossil fuels - oil, natural gas and coal - is the
4 primary source of the greenhouse gas pollution that causes global warming.” Both Complaints ¶ 2
5 (emphasis added). Plaintiffs’ complaints repeatedly allege that it is the “use,” “burning,” and “com-
6 bustion” of fossil fuels that creates the greenhouse gases and global warming to which they attribute
7 the sea level rise of which they complain. Both Complaints ¶¶ 2, 38-42; Oakland Complaint ¶ 53, San
8 Francisco Complaint ¶ 54.

9 17. For these and other reasons, Chevron denies that Plaintiffs are entitled to any relief on
10 any of their claims.

11 18. In the event that Chevron is held liable to Plaintiffs, however, Chevron is entitled to
12 partial indemnity and/or contribution from Statoil.

13 19. According to Statoil’s website, <https://www.statoil.com/>, Statoil, like Chevron and
14 each of the other Defendants in these actions, has engaged, and continues to engage, directly and
15 through its agents in the United States, in the production and promotion of “massive quantities of fos-
16 sil fuels.” Notably, Statoil:

- 17 a. In 2015 alone, produced 2,004 MBOE/D (millions of barrels of oil per day) and 51.2
18 BCM (billion cubic metres) of natural gas, and had total global revenues of 465.3 bil-
19 lion NOK (\$52.5 billion);
- 20 b. Is “an international energy company present in more than 30 countries around the
21 world, including several of the world’s most important oil and gas provinces... op-
22 erat[ing] in North and South America, Africa, Asia, Europe and Oceania—as well as
23 Norway”;
- 24 c. Has “positioned [itself] as a significant player in the exploration and development of
25 oil and gas in the Gulf of Mexico, as well as in the exploration and production from
26 shale and tight rock formations in the US,” with “development and production activi-
27 ties in the United States includ[ing] interests and operations in the US Gulf of Mexico,
28 the Appalachian region, south-west Texas, and the Williston Basin”; and

1 d. In its US business alone, “currently handles a production of about 251,000 boe/day
2 (2015)” and has “a trading office in Stamford, Connecticut which plays an important
3 role in [its] global network for trading crude oil and refined products, and from which
4 [Statoil] deliver[s] about 600,000 barrels of crude oil, petrol, propane and butane into
5 the North American market every day.”

6 20. Statoil’s website also identifies Statoil as a member of the American Petroleum Insti-
7 tute.

8 21. Accordingly, Plaintiffs’ allegations, if found to be true and sufficient, would implicate
9 Statoil as a party responsible for a portion of the injuries and damages Plaintiffs claim on the same
10 basis as they would implicate Chevron and the other named Defendants.

11 22. Statoil’s production and promotion of fossil fuels upon which this third-party com-
12 plaint is based constitute “a regular course of commercial conduct” within the meaning of 28 U.S.C.
13 § 1603(d).

14 23. Such production and promotion also constitute “a commercial activity carried on in
15 the United States by [a] foreign state” within the meaning of 28 U.S.C. §§ 1603(e) and 1605(a)(2)
16 because they have “substantial contact with the United States.” Notably, Statoil’s website and SEC
17 filings both detail Statoil’s extensive onshore and offshore oil and gas development and production
18 activities in the United States and also confirm that these activities are conducted through Statoil’s
19 Development and Production USA division (“DPUSA”). *See, e.g.*, [https://www.statoil.com/en/about-](https://www.statoil.com/en/about-us/organisation.html)
20 [us/organisation.html](https://www.statoil.com/en/about-us/organisation.html) (organization chart, description of DPUSA); Schedule 13D filed by Statoil on
21 December 1, 2011,² Annex A, “Directors and Executive Officers of Reporting Persons,” at pp. A-6,
22 A-9-10, A12-16 (reflecting several instances of the same individuals serving as directors or officers
23 of both Statoil and United States subsidiaries of Statoil).

24 **Count One: Partial Equitable Indemnity**

25 24. Chevron incorporates by reference each of the allegations in paragraphs 1 through 23
26 above.

27 _____
28 ² <https://www.sec.gov/Archives/edgar/data/1034755/000119312511336814/d267817dsc13d.htm>

Respectfully submitted,

Dated: December 14, 2017

SUSMAN GODFREY LLP

STERN & KILCULLEN, LLC

By: /s/ Neal S. Manne

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