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 27 CORPORATION and CHEVRON U.S.A., INC

28 **UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

THE CITY OF RICHMOND, a municipal
 corporation, individually and on behalf of THE
 PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

CHEVRON CORP.; CHEVRON U.S.A.,
 INC.; EXXONMOBIL CORP.; BP P.L.C.; BP
 AMERICA, INC.; ROYAL DUTCH SHELL
 PLC; SHELL OIL PRODUCTS COMPANY
 LLC; CITGO PETROLEUM CORP.;
 CONOCOPHILLIPS; CONOCOPHILLIPS
 COMPANY; PHILLIPS 66; TOTAL E&P
 USA INC.; TOTAL SPECIALTIES USA
 INC.; ENI S.p.A.; ENI OIL & GAS INC.;
 ANADARKO PETROLEUM CORP.;
 OCCIDENTAL PETROLEUM CORP.;
 OCCIDENTAL CHEMICAL CORP.;

First Filed Case: 3:18-CV-00450-VC
 Related Case: 3:18-CV-00458-VC
 Related Case: 3:18-CV-00732-VC

**DEFENDANTS' NOTICE OF APPEAL AND
 REPRESENTATION STATEMENT**

CASE NO. 3:18-CV-00732-VC

1 REPSOL S.A.; REPSOL ENERGY NORTH
2 AMERICA CORP.; REPSOL TRADING USA
3 CORP.; MARATHON OIL COMPANY;
4 MARATHON OIL CORPORATION;
5 MARATHON PETROLEUM CORP.; HESS
6 CORP.; DEVON ENERGY CORP.; DEVON
7 ENERGY PRODUCTION COMPANY, L.P.;
8 ENCANA CORP.; APACHE CORP.; and
9 DOES 1 through 100, inclusive,

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Defendants.

NOTICE OF APPEAL¹

Pursuant to 28 U.S.C. §§ 1291 and 1447(d), notice is hereby given that Defendants in the above-named cases hereby appeal to the United States Court of Appeals for the Ninth Circuit from the orders entered on July 10, 2018 granting Plaintiffs' motions to remand these actions to state court. See 3:18-cv-00450-VC, ECF No. 142; 3:18-cv-00458-VC, ECF No. 140; 3:18-cv-00732-VC, ECF No. 128. Defendants removed these cases from state court pursuant to, *inter alia*, 28 U.S.C. § 1441(a) (original federal jurisdiction) and 28 U.S.C. § 1442 (the federal officer removal statute). See, e.g., No. 18-cv-00450-VC, ECF No. 1 at 1. Section 1447(d) does not bar review of the remand order because, *inter alia*, the district court effectively dismissed Plaintiffs' federal common law claims on the merits—not for lack of subject matter jurisdiction—and declined to exercise supplemental jurisdiction over any remaining state-law claims pursuant to 28 U.S.C. § 1367(c)(3). See *Atlantic Nat'l Trust, LLC v. Mt. Hawley Ins. Co.*, 621 F.3d 931, 938 (9th Cir. 2010); *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 637 (2009). Moreover, Section 1447(d) provides that “an order remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of this title shall be reviewable by appeal or otherwise.” 28 U.S.C. § 1447(d). Accordingly, the Court of Appeals has jurisdiction to review the district court's remand order, which concluded, *inter alia*, that removal was not warranted under the federal officer removal statute. No. 18-CV-00732-VC, ECF No. 128 (citing No. 17-cv-04929, ECF No. 223 at 5). In addition, because section 1447(d) expressly authorizes review of the *order* remanding these actions to state court, the Court of Appeals may review the *entire order* to determine whether removal was proper under any of Defendants' other grounds of removal.

July 18, 2018

Respectfully submitted,

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¹ This Notice of Appeal is submitted subject to and without waiver of any defense, affirmative defense, or objection, including personal jurisdiction, insufficient process, or insufficient service of process.

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Pursuant to Rule 12(b) of the Federal Rules of Appellate Procedure and Circuit Rules 3-2(b) and 12-2, Defendants submit this Representation Statement. The following list identifies all parties to the action, and also identifies their respective counsel by name, firm, address, telephone number, and email, where appropriate.

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