

Hon. Robert S. Lasnik

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KING COUNTY,

Plaintiff,

v.

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

Defendants.

Case No. 2:18-cv-00758RSL

JOINT STATUS REPORT

NOTED: August 26, 2020

JOINT STATUS REPORT

The Court’s order dated October 17, 2018, requires the parties “to inform the Court by letter of their position on how to proceed based upon the outcome of the appeal in *City of Oakland* . . . within 10 business days of (a) the deadline for filing a petition for rehearing and/or rehearing *en banc* expires in *City of Oakland* without any party filing a petition; (b) the date on which any such petition is denied; or (c) the date on which the Ninth Circuit issues an opinion after rehearing or rehearing *en banc*.” Dkt. No. 138. On May 26, 2020, the Ninth Circuit vacated the district court order denying the motion to remand in *City of Oakland* and remanded the case to the district court to consider additional grounds for removal asserted by Defendants that were not addressed by the Ninth Circuit’s opinion. *See City of Oakland v. BP PLC*, 960 F.3d 570 (9th Cir. 2020). The Ninth Circuit did not address the district court’s orders granting Defendants’ Rule 12(b)(6) motion for failure to state a claim and certain Defendants’ Rule 12(b)(2) motions to dismiss for lack of personal jurisdiction.¹ On August 12, 2020, the Ninth Circuit denied Defendants’ petition for panel rehearing and/or rehearing *en banc* in *City of Oakland*, after modifying the panel’s opinion in one respect. *See City of Oakland v. BP PLC*, 2020 WL 4678380 (9th Cir. Aug. 12, 2020). Accordingly, the parties hereby submit the following joint status report and respectfully request an additional 14 days to submit a further joint status report informing the Court of their position on how they would propose to proceed in this action.²

Procedural history and developments in the Ninth Circuit and Supreme Court. On May 9, 2018, Plaintiff King County filed an action against five defendants, BP P.L.C., Chevron Corporation, ConocoPhillips, Exxon Mobil Corporation, and Royal Dutch Shell plc (collectively, “Defendants”), in the Superior Court of the State of Washington in and for King County. Defendant Chevron Corporation removed the action to this Court on May 25, 2018.

¹ The Ninth Circuit stated that, “[i]f, on remand, the district court determines that the cases must proceed in state court, the Cities [of Oakland and San Francisco] are free to move the district court to vacate its personal-jurisdiction ruling.” *Id.* at 585 n.13.

² This submission does not operate as an admission of any factual allegation or legal conclusion and is submitted subject to and without waiver of any right, defense, affirmative defense, claim, or objection, including lack of personal jurisdiction, insufficient process, or insufficient service of process.

1 Dkt. No. 1. Plaintiff did not file a motion to remand. On July 27, 2018, Defendants filed motions
2 to dismiss the Complaint pursuant to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil
3 Procedure. Dkt. Nos. 106–112. On August 17, 2018, Plaintiff filed a First Amended Complaint.
4 Dkt. No. 113. Defendants then filed motions to dismiss the First Amended Complaint pursuant
5 to Rules 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure. Dkt. Nos. 115–120.

6 On September 13, 2018, Plaintiff filed a partially unopposed motion to stay proceedings
7 pending the Ninth Circuit’s decision in two similar cases brought by the City of Oakland and
8 the City and County of San Francisco. Dkt. No. 125. On October 17, 2018, the Court granted
9 the partially unopposed motion to stay proceedings, ordering this action stayed pending the
10 appeal in *City of Oakland v. BP PLC*, No. 18-16663. Dkt. No. 138. The Court ordered that
11 “[a]ll parties to this action shall inform the Court by letter of their position on how to proceed
12 based upon the outcome of the appeal in *City of Oakland*.” *Id.* The Court further ordered that
13 “[t]his letter shall be filed within 10 business days of (a) the deadline for filing a petition for
14 rehearing and/or rehearing *en banc* expires in *City of Oakland* without any party filing a petition;
15 (b) the date on which any such petition is denied; or (c) the date on which the Ninth Circuit
16 issues an opinion after rehearing or rehearing *en banc*.” *Id.*

17 On May 26, 2020, the Ninth Circuit issued a decision in *City of Oakland v. BP PLC*, No.
18 18-16663 (9th Cir.), and Defendants timely filed a petition for panel rehearing and/or rehearing
19 *en banc*. On August 12, 2020, the Ninth Circuit modified the panel opinion in one respect and
20 otherwise denied the petition. Defendants intend to file petition for writ of certiorari in the
21 Supreme Court of the United States.

22 ***Plan for next steps in this action.*** In light of the foregoing developments, the parties
23 have been discussing next steps for proceedings in this case and are hopeful to reach an
24 agreement soon. The parties believe and respectfully submit that a joint proposal on next steps
25 would be more helpful to the Court than receiving separate positions from the parties. As noted
26 above, the parties are optimistic that they can reach an agreement and submit a joint proposal
27 relatively soon. Accordingly, the parties respectfully request that the Court continue the stay in
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1 this matter and direct the parties to submit a further joint status report, including a proposal for
2 next steps, to the Court within 14 days—by September 9, 2020.

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4 DATED this 26th day of August, 2020.
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** Pursuant to this Court’s Electronic Filing Procedure III.L, the electronic signatory has obtained approval from all other signatories

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