

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

CONSERVATION LAW FOUNDATION,  
INC.,

Plaintiff,

v.

SHELL OIL COMPANY, EQUILON  
ENTERPRISES LLC D/B/A SHELL OIL  
PRODUCTS US, SHELL PETROLEUM,  
INC., TRITON TERMINALING LLC, and  
MOTIVA ENTERPRISES LLC,

Defendants.

Case No: 3:21-cv-00933-SALM

**JOINT STATUS REPORT**

Pursuant to the Court's order entered March 1, 2022 (Doc. #52), counsel for Defendants Shell Oil Company<sup>1</sup>, Equilon Enterprises d/b/a Shell Oil Products US, Shell Petroleum Inc., Motiva Enterprises LLC, and Triton Terminaling LLC, (collectively "Defendants") and Plaintiff Conservation Law Foundation ("CLF" or "Plaintiff") file the following joint status report:

**I. DISCOVERY CONDUCTED**

Plaintiff served Defendants with its first set of requests for production on April 13, 2022. Defendants served their responses to Plaintiffs requests for production on May 13, 2022. This production consisted of 155 documents, totaling 6457 pages. Also on May 13, 2022, Defendants sent Plaintiff a letter seeking a meet and confer to discuss search terms, including the appropriate scope, and the timing for subsequent productions and a privilege log. Since the parties have yet to agree on search terms, Defendants' document production is ongoing and they plan to make

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<sup>1</sup> As disclosed in Defendants' prior filing (Doc. Entry #56), Shell Oil Company changed its name to Shell USA, Inc.

rolling productions with additional responsive documents. The parties anticipate a significant dispute concerning the appropriate scope of relevant and proportional discovery, including search terms, which will likely necessitate the Court's involvement.<sup>2</sup>

Plaintiff also served its first set of interrogatories to Defendants on April 13, 2022.

Defendants served their answers to Plaintiff's interrogatories on May 13, 2022.

Defendants served Plaintiff with their first set of requests for production and first set of interrogatories on May 3, 2022. Plaintiff's response was due on June 2, 2022, but the parties agreed to a one-week extension for Plaintiff to serve its response and Plaintiff has sought leave of the Court for this extension. Doc. No. 66.

Other than propounding and responding to initial written discovery, all other discovery remains to be done. The parties anticipate taking fact depositions, the number and timing of which depending, in part, on the responses to the parties' written discovery.

Expert discovery has not yet commenced.

Plaintiff did not serve a separate damages analysis, and relies on its statement in its initial disclosure that it does not seek damages but injunctive relief and civil penalties.

## **II. REMAINING DEADLINES**

The following deadlines remain:

- July 22, 2022: Deadline for Plaintiff to move to amend the complaint or join parties.

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<sup>2</sup> The basis for that belief concerns a similar suit pending in the District Court of Rhode Island involving the same parties and same claims as those asserted here—that the Providence Terminal is violating its CWA permit and RCRA and is not resilient to the impacts of climate change, including increased precipitation and flooding from severe weather events. Further, the parties have propounded nearly identical discovery requests. Defendants have similarly objected to Plaintiff's requests to the extent they believe the requests surpass issues related to that Terminal. *Conservation Law Foundation v. Shell Oil Co., et al.*, No. 1:17-cv-00396-WES-LDA. In that case, Plaintiff filed a motion to compel and Defendants filed a cross-motion for protective order, both regarding the appropriate scope of discovery in the case. That dispute has prevented the parties from reaching full agreement on search terms and custodians. The most recent filing in that case occurred on April 29, 2022, and the issues within that dispute will likely overlap entirely with the scope of discovery in this case. The Rhode Island court has scheduled a conference in early June to set a hearing date for the parties' pending motions.

- August 12, 2022: Deadline to propound written discovery related to fact discovery.
- August 22, 2022: Deadline for Defendants to move to amend the answer or join parties.
- August 26, 2022: Deadline for joint status report.
- November 4, 2022: Deadline to complete all fact discovery.
- November 28, 2022: Deadline for joint status report.
- December 12, 2022: Deadline to designate any trial experts and provide opposing counsel with reports from retained experts, pursuant to Fed. R. Civ. P. 26(a)(2), on any issues on which they bear the burden of proof.
- February 28, 2023: Deadline for joint status report.
- March 10, 2023: Deadline to designate all trial experts and provide opposing counsel with reports from retained experts, pursuant to Fed. R. Civ. P. 26(a)(2), on any issues on which they do not bear the burden of proof.
- May 19, 2023: Deadline to disclose rebuttal expert reports.
- May 26, 2023: Deadline for joint status report.
- July 28, 2023: Deadline to depose such expert witnesses.
- August 11, 2023: Deadline to file any motion related to the preclusion of an expert.
- August 28, 2023: Deadline for joint status report.
- November 17, 2023: Deadline to file dispositive motions.
- January 5, 2024: Deadline to file a joint trial memorandum.

At this time, the parties do not expect to seek extensions of these deadlines.

### **III. AMENDMENTS OR ADDITIONAL PARTIES**

On April 1, 2022, Defendant Shell Oil Company filed a notice of corporate name change with this Court, noting that its name changed to Shell USA, Inc., effective March 1, 2022. Plaintiff has not filed an amended pleading reflecting this change.

Plaintiff does not currently anticipate amending its complaint or adding additional parties, although Plaintiff reserves its right to seek leave to amend should the evidence disclosed in discovery indicate such amendment is necessary and appropriate. If the Court grants Defendants' motion to dismiss in whole or part, Plaintiff may seek leave to amend at that time.

Once the Court rules on Defendants' motion to dismiss, which if granted will dispose of the vast majority of the issues in this case, Defendants will evaluate whether it needs to move to add additional parties. If so, such a motion will be timely filed by the August 22, 2022 deadline.

#### **IV. DISPOSITIVE MOTIONS**

Plaintiff intends to file a motion for summary judgment by November 17, 2023 on any claims where the evidence demonstrates, after the close of fact and expert discovery, that there is no genuine issue of material fact.

Defendants plan to file a motion for summary judgment on any claims that remain following the Court's ruling on the motion to dismiss at close of discovery, by November 17, 2023, as ordered by this Court.

#### **V. CONSENT TO MAGISTRATE JUDGE**

The parties do not consent to a magistrate judge for all purposes or for trial.

#### **VI. REFERRAL FOR SETTLEMENT CONFERENCE**

The counsel for both parties have conferred with each other and their respective clients with regard to seeking a referral for a settlement conference. Counsel for both parties conferred with each other on May 25, 2022. The parties agree that a referral for a settlement conference would be helpful in exploring a resolution to this matter.

Dated: May 27, 2022

Respectfully submitted,

/s/ Bina Reddy

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### **CERTIFICATE OF SERVICE**

I hereby certify that on May 27, 2022, the foregoing Joint Status Report was filed through the Court's electronic filing system ("ECF"), by which means the document is available for viewing and downloading from the ECF system and a copy of the filing will be sent electronically to all parties registered with the ECF system.

/s/ Bina Reddy  
Bina Reddy