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

CITY OF OAKLAND, a Municipal  
Corporation, and THE PEOPLE OF THE  
STATE OF CALIFORNIA, acting by and  
through Oakland City Attorney BARBARA J.  
PARKER,

Plaintiffs,

v.

BP P.L.C., a public limited company of  
England and Wales, CHEVRON  
CORPORATION, a Delaware corporation,  
CONOCOPHILLIPS COMPANY, 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.

First Filed Case: No. 3:17-cv-6011-WHA  
Related Case: No. 3:17-cv-6012-WHA  
Related Case: No. 3:18-cv-7477

**ADMINISTRATIVE MOTION TO RELATE  
CASES**

THE HONORABLE WILLIAM H. ALSUP

1 CITY AND COUNTY OF SAN  
2 FRANCISCO, a Municipal Corporation, and  
3 THE PEOPLE OF THE STATE OF  
4 CALIFORNIA, acting by and through the San  
5 Francisco City Attorney DENNIS J.  
6 HERRERA,

7  
8 Plaintiffs,

9  
10 v.

11 BP P.L.C., a public limited company of  
12 England and Wales, CHEVRON  
13 CORPORATION, a Delaware corporation,  
14 CONOCOPHILLIPS COMPANY, a Delaware  
15 corporation, EXXON MOBIL  
16 CORPORATION, a New Jersey corporation,  
17 ROYAL DUTCH SHELL PLC, a public  
18 limited company of England and Wales, and  
19 DOES 1 through 10,

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21 Defendants.  
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## I. Introduction.

Pursuant to Civil Local Rule 3-12(b), Chevron Corporation gives notice of the following action in which it is a defendant: *Pacific Coast Federation of Fishermen's Associations, Inc. v. Chevron Corp. et al.*, No. 3:18-cv-7477 (the "Fisheries Action"). The Fisheries Action was removed to this District on December 12, 2018. The Fisheries Action is related to the above-captioned actions, *City of Oakland et al. v. BP p.l.c. et al.*, No. 3:17-cv-6011, and *City and County of San Francisco et al. v. BP p.l.c. et al.*, No. 3:17-cv-6012, on appeal from orders of dismissal by this Court (collectively, the "Judge Alsup Actions"), as well as actions pending before Judge Chhabria, *County of San Mateo v. Chevron Corp. et al.*, No. 3:17-cv-4929-VC; *City of Imperial Beach v. Chevron Corp. et al.*, No. 3:17-cv-4934-VC; *County of Marin v. Chevron Corp. et al.*, No. 3:17-cv-4935-VC; *City of Santa Cruz v. Chevron Corp. et al.*, No. 3:18-cv-458-VC; *County of Santa Cruz v. Chevron Corp. et al.*, No. 3:18-cv-450-VC; and *City of Richmond v. Chevron Corp., et al.*, No. 3:18-cv-732-VC, on appeal from orders of remand (collectively, the "Judge Chhabria Actions"). All parties agree that the Fisheries Action is related to the Judge Chhabria Actions. Declaration of Anne Champion ¶ 3. Defendants contend, however, that given the close relationship between the Fisheries Action and plaintiffs in the Judge Alsup Actions—namely, the City and County of San Francisco—the Fisheries Action is also related to the Judge Alsup Actions and should be assigned to Judge Alsup rather than Judge Chhabria. Plaintiff in the Fisheries Action opposes relation to the Judge Alsup actions and contends the Fisheries Action should be related to the Judge Chhabria Actions and assigned to Judge Chhabria. *Id.*

The Fisheries Action is the latest in a growing number of lawsuits seeking to hold a select group of fossil fuel companies liable for the impacts of global climate change caused by greenhouse gas emissions released by countless end users of defendants' subsidiaries' products. Champion Decl., Ex. A ¶ 3. In the Fisheries Action, Plaintiff Pacific Coast Federation of Fishermen's Associations, Inc. alleges that global warming has led to a rise in ocean temperatures, causing algal blooms that have allegedly contaminated Dungeness crab populations and made them unsafe for human consumption, thereby injuring crab fishers on the west coast of the United States (*see, e.g., id.* ¶ 8).

Defendants have contended that all of the global warming tort actions pending in this District should be related, given the identical legal theories on which they rely and overlapping factual and

1 legal issues regarding causation, damages, and other issues. Defendants thus moved to relate the  
 2 Judge Alsup Actions and the Judge Chhabria Actions on November 2, 2017. No. 17-cv-4929-VC,  
 3 Dkt. 170. Plaintiffs in the Judge Chhabria Actions, represented by Sher Edling LLP, also counsel for  
 4 Plaintiff in the Fisheries Action, did not oppose that motion. *See* No. 17-cv-4929-VC, Dkt. 174.  
 5 However, Plaintiffs in the Judge Alsup Actions, then represented by Hagens Berman LLP, opposed.  
 6 No. 17-cv-4929-VC, Dkt. 171. Because Judge Chhabria “is recused from cases in which the City and  
 7 County of San Francisco is a party,” he referred the motion to the Executive Committee. No. 17-cv-  
 8 4929-VC, Dkt. 173. The Executive Committee declined to deem the Judge Alsup Actions related to  
 9 the Judge Chhabria Actions. No. 17-cv-4929-VC, Dkt. 175. Following appeal of Judge Alsup’s or-  
 10 ders dismissing the San Francisco and Oakland actions, Hagens Berman withdrew as counsel for  
 11 those plaintiffs, and was replaced by Sher Edling. C.A. No. 18-16663, Dkt. 14 & 18.<sup>1</sup> Thus the  
 12 plaintiffs in all global warming tort actions in this district are now represented by Sher Edling.

13 Although Defendants believe the Fisheries Action is related to both the Judge Chhabria and  
 14 Judge Alsup Actions, given the Executive Committee’s denial of the motion to relate those two sets  
 15 of cases, Chevron respectfully submits that it is more appropriate to relate the Fisheries Action to the  
 16 Judge Alsup Actions given the close ties between the Fisheries Action and the City and County of  
 17 San Francisco and given Judge Chhabria’s prior recusal from the *San Francisco* action on the basis of  
 18 the involvement of the City and County of San Francisco. Accordingly, Defendants request that the  
 19 Court find the Fisheries Action related to the Judge Alsup Actions and assign this action to Judge  
 20 Alsup.<sup>2</sup>

## 21 **II. Background.**

22 All of the global warming tort actions pending in this district were originally filed in state  
 23  
 24

25 <sup>1</sup> On December 20, 2017, and January 22, 2018, the City and County of Santa Cruz and the City of  
 26 Richmond respectively filed actions against groups of defendants that overlapped with the previ-  
 27 ously-filed actions. *See* No. 3:18-cv-450-VC; No. 3:18-cv-458-VC; No. 3:18-cv-732-VC. Those  
 cases were subsequently removed to this District and related to the previously-filed actions pend-  
 28 ing before Judge Chhabria. *See* No. 17-cv-4929 VC, Dkt. 208 & 211.

<sup>2</sup> This motion is not intended to operate as an admission of any factual allegation or legal conclu-  
 sion and is submitted subject to and without waiver of any right, defense, or objection, including  
 but not limited to lack of personal jurisdiction or sufficiency of services of process.

1 court and removed to this court by Defendants. *See* Dkt. 32; No. 17-cv-4929-VC, Dkt. 78. On Feb-  
 2 ruary 27, 2018, Judge Alsup denied Plaintiffs' motions to remand, Dkt. 134, and on June 25, 2018,  
 3 granted Defendants' motion to dismiss for failure to state a claim, Dkt. 283. On July 27, 2018, Judge  
 4 Alsup granted several Defendants' motions to dismiss for lack of personal jurisdiction and entered  
 5 judgment. *See* Dkt. 287. Plaintiffs in the Judge Alsup Actions appealed to the Ninth Circuit, which  
 6 is pending. C.A. Case No. 18-16663. On March 16 and July 10, 2018, Judge Chhabria granted the  
 7 motions of the plaintiffs to remand to state court. No. 17-cv-4929-VC, Dkt. 223; No. 18-cv-450-VC,  
 8 Dkt. 142. Those orders are currently on appeal in the Ninth Circuit, and remand is stayed. C.A. Case  
 9 No. 18-15499.

10 On November 14, 2018, Plaintiff in the Fisheries Action filed its action in the Superior Court  
 11 of California, County of San Francisco, alleging that a group of energy company defendants are re-  
 12 sponsible for harms to the Dungeness crab fishing industry due to global climate change. Champion  
 13 Decl. Ex. A. On December 12, Defendants Chevron and Chevron U.S.A., Inc. removed the Fisheries  
 14 Action to this District.

15 **III. The Fisheries Action Is Related to the Pending Climate Change Actions, and Especially**  
 16 **the Judge Alsup Actions.**

17 Cases are related when: "(1) The actions concern substantially the same parties, property,  
 18 transaction or event; and (2) It appears likely that there will be an unduly burdensome duplication of  
 19 labor and expense or conflicting results if the cases are conducted before different Judges." Civ. L.R.  
 20 3-12(a). The Fisheries Action is related to all of the pending global warming tort actions under this  
 21 standard, and of the two groups, it is more appropriate to relate the Fisheries Action to the Judge  
 22 Alsup Actions given San Francisco's close ties to the Fisheries Action. Relation here will avoid the  
 23 waste of the considerable judicial (and party) resources and potential for conflicting results that  
 24 would stem from duplicative, uncoordinated litigations before different judges, and would avoid the  
 risk of recusal.

25 **A. The Fisheries Action and the Judge Alsup Actions Involve the Same Parties,**  
 26 **Property, Transactions, Events, Allegations, and Legal Theories.**

27 Each of the fossil fuel company defendants in the Judge Alsup Actions is also a defendant in  
 28

1 the Fisheries Action. Although the Judge Chhabria Actions and the Fisheries Action also involve ad-  
 2 ditional defendants that are not named in the Judge Alsup Actions, this will not significantly affect  
 3 the factual or legal issues in those cases. It does not change the grounds for removal or for dismissal,  
 4 or the theories of liability. The same “property” is at issue as well: the waters of the San Francisco  
 5 Bay and the adjacent area of the Pacific Ocean—both of which are navigable waters of the United  
 6 States. *See* Dkt. 134, at 8. Indeed, plaintiffs in all three actions are now represented by the same law  
 7 firm: Sher Edling LLP.

8 The overlap between the parties and property in these actions is underscored by the Dunge-  
 9 ness crab fishing industry’s historic and significant ties to the City of San Francisco. *See* Champion  
 10 Decl. Ex. B. Plaintiff Pacific Coast Federation of Fisherman’s Associations is headquartered in San  
 11 Francisco (in the Presidio). *See id.* Ex. C. The Port of San Francisco is the largest crab landing port  
 12 in California, receiving as much as half of the state’s annual catch. *See id.* Ex. D. The industry is im-  
 13 portant enough to San Francisco that, in February 2016, the City authorized a “Crab Industry Relief  
 14 Plan” to offset losses caused by a delay in the opening of the crab season. *See id.* Ex. E. In the Com-  
 15 plaint in its own global warming tort action, the City of San Francisco discusses its plans to modify  
 16 the Port of San Francisco and fortify the Seawall “stretching from Fisherman’s Wharf”—the historic  
 17 home of the Dungeness crab industry—“to Mission Creek.” No. 17-cv-6012-WHA, Dkt. 168 (FAC),  
 18 ¶ 131(a). Indeed, wastewater discharges by the City and County of San Francisco—Plaintiffs in the  
 19 Judge Alsup Actions—are also alleged to have impacted Dungeness crabs. *See* Champion Decl. Ex.  
 20 F.

21 Liability in the Fisheries Action, the Judge Alsup Actions, and the Judge Chhabria Actions is  
 22 premised on the same factual allegations and events. Just as in the previously-filed cases, the com-  
 23 plaint in the Fisheries Action alleges that the energy industry’s extraction and distribution of fossil  
 24 fuels has led to anthropogenic global warming which has caused climate-related harms to the Plain-  
 25 tiff. In all three cases, plaintiffs allege that Defendants have created or assisted in the creation of a  
 26 public nuisance, causing harm to Plaintiffs. The claims thus all depend on the same core legal theo-  
 27 ries and facts: That defendants’ fossil fuel extraction and distribution was somehow unreasonable or  
 28 unlawful, that this conduct caused compensable harm to Plaintiffs that can be traced to Defendants,

1 and that a court of law has the authority to render a decision to that effect. Moreover, all of the cases  
 2 request overlapping and similar relief: “abatement” of the “nuisance,” either in the form of a fund or  
 3 some other form of equitable relief, in addition to the costs of suit and attorneys’ fees.

4 **B. Relating the Fisheries and the Judge Alsup Actions Will Promote Judicial Econ-**  
 5 **omy and Reduce the Risk of Conflicting Results.**

6 Because these actions involve claims brought by the same counsel for closely-related plain-  
 7 tiffs against overlapping groups of defendants based on the same alleged conduct, relating the cases  
 8 would prevent “unduly burdensome duplication of labor and expense or conflicting results” that  
 9 could occur if the cases were “conducted before different Judges.” *See* Civ. L.R. 3-12(a)(2). Indeed,  
 10 given the similarity of the factual allegations, counsel, parties, property, and events, litigation in the  
 11 cases will be almost identical. Requiring different judges to analyze and rule on nearly-identical mo-  
 12 tions to remand and motions to dismiss would be a tremendous waste of the Court’s resources and  
 13 risk inconsistent rulings. Moreover, given the contention that wastewater discharges are also impact-  
 14 ing Dungeness crabs, the conduct of San Francisco may be at issue in the Fisheries Action and its  
 15 participation in that Action may in fact be necessary. *See* Champion Decl. Ex. F.

16 Relating these cases also will reduce the risk of inconsistent or conflicting rulings with respect  
 17 to the legal issues framed by each complaint, including whether there is federal jurisdiction and  
 18 whether plaintiffs state claims upon which relief may be granted. *See* Civ. L.R. 3-12(a)(2).

19 **IV. Conclusion.**

20 The Fisheries Action is related to both the Judge Alsup Actions and the Judge Chhabria Ac-  
 21 tions, because all of these actions concern substantially the same parties, property, transactions, or  
 22 events, and it would be an unduly burdensome duplication of labor and expense and create a risk of  
 23 conflicting results if the cases were conducted before different judges. *See* Civ. L.R. 3-12(a). Be-  
 24 cause the newly-filed Fisheries Action has substantial connections and property ties to the City and  
 25 County of San Francisco, and will thus likely implicate their interests, the Fisheries Action should be  
 26 related to the Judge Alsup Actions, where they are plaintiffs. Given that Judge Chhabria has recused  
 27 himself from the *San Francisco* climate change action and other actions involving the City and  
 28 County of San Francisco, the relationship between San Francisco and the Fisheries Action counsels in  
 favor of relating this action to the Judge Alsup Actions and assigning them to Judge Alsup.

Respectfully submitted,

Dated: December 13, 2018

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Theodore J. Boutrous, Jr.  
Theodore J. Boutrous, Jr.

*Attorneys for Defendant Chevron Corporation*



**CERTIFICATE OF SERVICE**

I, Kelsey J. Helland, declare as follows:

I am employed in the County of San Francisco, State of California, I am over the age of eighteen years and am not a party to this action; my business address is 555 Mission Street, Suite 3000, San Francisco, CA 94105-0921, in said County and State.

I hereby certify that on December 13, 2018, the foregoing Administrative Motion to Relate Cases was filed with the Clerk of the Court via CM/ECF. Notice of this filing will be sent by email to all registered parties by operation of the Court's electronic filing systems.

I further certify that on December 13, 2018, the foregoing Administrative Motion to Relate Cases was served on the following parties by the means described below:

☒ **BY ELECTRONIC SERVICE:** On the above-mentioned date, pursuant to an agreement between the parties, the documents were sent to the persons at the electronic notification addresses as shown below.

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☒ **(FEDERAL)** I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 13, 2018

By: /s/ Kelsey J. Helland

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