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January 31, 2020

Via ECF

Molly C. Dwyer
Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

Re: *County of San Mateo v. Chevron Corp., et al.*, No. 18-15499; *City of Imperial Beach v. Chevron Corp., et al.*, No. 18-15502; *County of Marin v. Chevron Corp., et al.*, No. 18-15503; *County of Santa Cruz, et al. v. Chevron Corp., et al.*, No. 18-16376 Oral Argument Scheduled for Feb. 5, 2020 (Ikuta, Christen, Lee, J.J.)

Dear Ms. Dwyer,

We respond to Defendant-Appellant's letter citing *Juliana v. United States*, 2020 WL 254149 (9th Cir. Jan. 17, 2020).

Juliana concerned Article III redressability, and whether a federal court could adequately "supervise[] or enforce[]" the plaintiffs' requested *prospective* remedy–"an order requiring the [federal] government to develop a plan to 'phase out fossil fuel emissions and draw down excess atmospheric CO_2.'" *Id.* at *2, *9. *Juliana* has no bearing on this case, in which Plaintiffs, exercising their sovereign and police power authority, pursue well-established state law remedies against private parties for *past* wrongful conduct.

The only issue before this Court, given the limited scope of review under 28 U.S.C. §1447(d) and *Patel v. Del Taco, Inc.*, 446 F.3d 996 (9th Cir. 2006), is whether the district court correctly rejected "federal-officer" removal jurisdiction–which that court appropriately termed "dubious." Even if this Court could reach any other removal issues, nothing in *Juliana*'s general discussion of federal interests that might be implicated by a prospective "plan" to guarantee the *Juliana* plaintiffs' claimed constitutional right to a "'climate system capable of sustaining human life,'" *id. at* *9, has any bearing on the claims or their elements at issue in *this* case. *See Virginia Uranium, Inc. v. Warren*, 139 S.Ct.1894, 1901 (2019) ("Invoking some brooding federal interest or appealing to a judicial policy preference should never be enough to win preemption") (plurality); *Empire Healthchoice Assur., Inc. v. McVeigh*, 547 U.S. 677, 692 (2006) (absent "'significant conflict … between an identifiable federal policy or interest and the operation of state law' …. there is no cause to displace state law, much less to lodge this case in federal court"); *Miree v. DeKalb County*, 433 U.S. 25 (1977) (no jurisdiction despite "substantial [federal] interest in regulating aircraft travel and … safety" where "the litigation is among private parties and no substantial rights or duties of the United States hinge on its outcome"); *Provincial Government of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1091 (9th Cir. 2009) ("general invocation[s] of international law or foreign relations" cannot establish federal question jurisdiction).

Respectfully submitted,

/s/ Victor M. Sher
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Counsel for Plaintiffs-Appellees

cc: All Counsel of Record (via ECF)