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Attorneys for Defendants CHEVRON
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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

CITY AND COUNTY OF HONOLULU,

Plaintiff,

v.

SUNOCO LP; ALOHA PETROLEUM,
LTD.; ALOHA PETROLEUM LLC;
EXXON MOBIL CORP.;
EXXONMOBIL OIL CORPORATION;
ROYAL DUTCH SHELL PLC; SHELL
OIL COMPANY; SHELL OIL
PRODUCTS COMPANY LLC;
CHEVRON CORP; CHEVRON USA
INC.; BHP GROUP LIMITED; BHP
GROUP PLC; BHP HAWAII INC.; BP

CASE NO.: CV 20-00163 DKW-RT
(Other Civil Action)

**UPDATE TO FURTHER
STATUS REPORT AND
REQUEST FOR
RECONSIDERATION OF STAY**

Action Filed: March 9, 2020
No Trial Date Set

PLC; BP AMERICA INC.; MARATHON
PETROLEUM CORP.;
CONOCOPHILLIPS;
CONOCOPHILLIPS COMPANY;
PHILLIPS 66; PHILLIPS 66 COMPANY;
AND DOES 1 through 100, inclusive,

Defendants.

**UPDATE TO FURTHER STATUS REPORT AND
REQUEST FOR RECONSIDERATION OF STAY**

On August 18, 2020 the parties filed a Joint Further Status Report (the “Status Report”) (Dkt. No. 108), and each party subsequently filed an update to the Status Report (Dkt. Nos. 109-110).¹

On August 21, the Court—“having considered the issues in [the] *San Mateo* and *Oakland*” appeals—partially lifted the stay in this action and set a schedule for the parties to brief Plaintiff’s anticipated motion to remand. Dkt. No. 111.

Subsequently, however, on August 25, the Ninth Circuit stayed issuance of the mandate in *County of San Mateo, et al. v. Chevron Corp., et al.*, Nos. 18-15499, 18-15502, 18-15503, and 18-16376 (9th Cir.) pending Defendants’ writ of certiorari to the Supreme Court.

¹ 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.

Given the Ninth Circuit's intervening Order, Defendants respectfully request the Court reconsider its August 21, 2020 decision and now order: (i) briefing on remand stayed until mandate issues in the *San Mateo* appeals; and (ii) within 7 days of issuance of mandate in those appeals, the parties to file with the Court their proposal(s) for next steps in this case.² Counsel for Defendants conferred with counsel for Plaintiff, and Plaintiff opposes reconsideration of the Court's August 21 Order.

Furthermore, in an abundance of caution, Defendants also respectfully request that the Court confirm that, as the parties previously requested and stipulated (Dkt. No. 9), Defendants' time to respond to the Complaint continues to be stayed and that the parties shall propose a briefing schedule on Defendants' motions to dismiss within 14 days of the Court's ruling on Plaintiff's motion to remand and, in the meantime, that the deadline to serve Rule 26(a) initial disclosures and the issuance of the Rule 16(b) scheduling order will remain suspended until Plaintiff's motion to remand is decided. While Defendants understood the Court's August 21, 2020 Order to preserve the parties' earlier stipulation in this regard, Defendants believe it prudent to memorialize that

² Defendants note that this course of action would be consistent with the recent decision by Judge Chhabria in the underlying *San Mateo* cases, which stayed remand proceedings in those cases "until the mandate issues." *County of San Mateo, et al. v. Chevron Corp., et al.*, No. 3:17-cv-04929-VC (N.D. Cal.), Dkt. 279.

deadlines for Defendants to file their anticipated motions to dismiss or otherwise respond to the Complaint continue to be adjourned as set forth above. Counsel for Defendants have conferred with counsel for Plaintiff on this issue as well, and Plaintiff agrees that Defendants' time to respond to the Complaint should continue to be stayed, and that the deadline to serve Rule 26(a) initial disclosures and the issuance of the Rule 16(b) scheduling order should remain suspended until Plaintiff's motion to remand is decided.

DATED: September 4, 2020

Respectfully Submitted,

By: /s/ Ted N. Pettit

Ted N. Pettit

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CITY AND COUNTY OF HONOLULU v. SUNOCO LP, et al., Case No. CV 20-00163 DKW-RT; UPDATE TO FURTHER JOINT STATUS REPORT & REQUEST FOR RECONSIDERATION OF STAY