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February 12, 2021

VIA ECF

Hon. Derrick K. Watson
United States District Court
District of Hawaii
300 Ala Moana Blvd C-338
Honolulu, HI 96850

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Letter

Re: Case No. 20-cv-00163, *City and County of Honolulu v. Sunoco LP, et al.*
Case No. 20-cv-00470, *County of Maui v. Sunoco LP, et al.*

Dear Judge Watson:

We represent Defendants Chevron Corporation and Chevron U.S.A. Inc. in the above-referenced actions. We write to respectfully request that the Court instruct the Court Clerk not to send certified copies of the Order granting Plaintiff's motion to remand (*City and County of Honolulu v. Sunoco LP, et al.*, No. 20-cv-00163, Dkt. No. 128; *County of Maui v. Sunoco LP et al.*, No. 20-cv-00470, Dkt. No. 99) to the Circuit Courts until Defendants can file a formal motion to stay pending appeal, which Defendants will do within seven days or as soon as the Court requests.

As the Court is aware, these actions implicate issues of national importance, and a number of related cases have now reached the United States Supreme Court. The question of whether federal jurisdiction exists over both the City and County of Honolulu's and the County of Maui's claims may be resolved imminently, as the Supreme Court heard argument in *BP p.l.c. v. Mayor & City Council of Baltimore*, No. 19-1189 (U.S.) on January 19, 2021. Petitions for certiorari are pending in eleven other climate change-related cases, including in *City of Oakland* and in *County of San Mateo* that explicitly raise the merits of a number of Defendants' jurisdictional arguments. *Chevron Corp. v. City of Oakland*, petition for cert. filed, No. 20-1089 (U.S. Jan. 8, 2020) (consolidating two cases); *Chevron Corp. v. County of San Mateo*, petition for cert. filed, No. 20-884 (U.S. Dec. 30, 2020) (consolidating six cases); see also *Shell Oil Prods. Co. v. Rhode Island*, petition for cert. filed, No. 20-900 (U.S. Dec. 30, 2020); *Suncor Energy (U.S.A.) Inc. v. Bd. of Cnty. Comm'rs of Boulder Cnty.*, petition for cert. filed, No. 20-783 (U.S. Dec. 4, 2020).

We submit that in light of these significant national interests and pending Supreme Court proceedings, this Court should allow Defendants time to seek a stay of remand pending appeal to the Ninth Circuit. Such a stay will not substantially harm Plaintiffs, whereas Defendants will be irreparably injured absent a stay. In prior climate change-related cases, federal courts in California, Rhode Island, and Maryland allowed defendants time to brief a

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motion to stay pending appeal after a grant of remand. *See, e.g.,* Order Granting Motions to Remand, *County of San Mateo v. Chevron Corp. et al.*, No. 17-4929 (N.D.Cal. Mar. 16, 2018), ECF No. 223 at 5–6; Opinion and Order, *State of Rhode Island v. Chevron Corp. et al.*, No. 18-395 (D.R.I. July 22, 2019), ECF No. 122 at 16–17; Memorandum Opinion, *Mayor and City Council of Baltimore v. BP P.L.C. et al.*, No. 18-2357 (D. Md. June 20, 2019), ECF No. 182 at 3.

For these reasons, we ask the Court to instruct the Court Clerk not to send certified copies of the Remand Order to the Circuit Courts of the First and Second Circuits, State of Hawai'i, in *City and County of Honolulu v. Sunoco LP, et al.* and *County of Maui v. Sunoco LP, et al.*, respectively. Defendants will file a formal motion within seven days or as soon as the Court requests.

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