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May 19, 2022

Via ECF

Patricia S. Dodszuweit
Clerk of Court
United States Court of Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1790

Re: *State of Delaware v. BP America Inc., et al.*, No. 22-1096
Plaintiff-Appellee's Citation of Supplemental Authorities

Dear Ms. Dodszuweit,

Plaintiff-Appellee State of Delaware writes to inform the Court of the Fourth Circuit's unanimous denial of rehearing en banc in *Mayor & City Council of Baltimore v. BP P.L.C.*, No. 19-1644, Dkt. 283 (4th Cir. May 17, 2022) ("Order") (**Ex. A**).

As Plaintiff-Appellee explained in its answering brief (Dkt. 134), *Baltimore* involved analogous attempts to remove climate-related claims to federal court. A panel of the Fourth Circuit affirmed the district court's remand order, "resoundingly" rejecting many of the same jurisdictional arguments advanced by Defendants-Appellants here. *See Mayor & City Council of Baltimore v. BP P.L.C.*, 31 F.4th 178, 195, 199 (4th Cir. 2022). Those include nearly identical theories of (1) federal-common-law removal, *id.* at 199–208; (2) *Grable* jurisdiction, *id.* at 208–16; (3) OCSLA jurisdiction, *id.* at 219–22; and (4) federal-officer removal, *id.* at 228–38.

The defendants in *Baltimore* then petitioned for rehearing en banc. "No judge," however, "requested a poll under Fed. R. App. P. 35." Order at 2. The full court therefore denied the petition without dissent.

Respectfully submitted,

/s/ Victor M. Sher

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Counsel for Plaintiff-Appellee

cc: All Counsel of Record (via ECF)