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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 CITY OF OAKLAND, a Municipal Corporation,
and THE PEOPLE OF THE STATE OF
18 CALIFORNIA, acting by and through the
Oakland City Attorney,

19 Plaintiffs,

20 v.

21 BP P.L.C., a public limited company of England
and Wales, CHEVRON CORPORATION, a
22 Delaware corporation, CONOCOPHILLIPS, a
23 Delaware corporation, EXXONMOBIL
CORPORATION, a New Jersey corporation,
24 ROYAL DUTCH SHELL PLC, a public limited
company of England and Wales, and DOES 1
25 through 10,

26 Defendants.

Case No.: 3:17-cv-06011-WHA

**PLAINTIFFS' RESPONSE TO
NOTICE RE AMENDED
COMPLAINTS**

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CHEVRON CORP.,
Third Party Plaintiff,

v.

STATOIL ASA,
Third Party Defendant.

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

Plaintiffs,

v.

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

CHEVRON CORP.,
Third Party Plaintiff,

v.

STATOIL ASA,
Third Party Defendant.

Case No.: 3:17-cv-06012-WHA

**PLAINTIFFS' RESPONSE TO
NOTICE RE AMENDED
COMPLAINTS**

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1 Plaintiffs the City of Oakland and the People of the State of California, acting by and through
2 Oakland City Attorney Barbara J. Parker in Case No. 3:17-cv-06011-WHA, and the City and County
3 of San Francisco and the People of the State of California, acting by and through San Francisco City
4 Attorney Dennis J. Herrera in Case No. 3:17-cv-06012-WHA (“Plaintiffs”), respond to the Court’s
5 Notice Re Amended Complaints in the above-captioned cases. The following is a summary of the
6 substantive changes effected in Plaintiffs’ amended complaints:

- 7 • ConocoPhillips. Plaintiffs have added the parent company, ConocoPhillips, and dropped the
8 subsidiary known as “ConocoPhillips Company.” Plaintiffs intended to sue the parent
9 company and have now corrected this issue. Amended Compls. (“AC”) ¶ 22.
- 10 • Federal common law. In order to conform their complaint to the Court’s ruling dated
11 February 27, 2018, ECF No. 116 in No. 3:17-cv-06012-WHA and ECF No. 134 in No. 3:17-
12 cv-06011-WHA, Plaintiffs have separately pled a federal common law claim. AC ¶¶ 14-15,
13 137-142. Plaintiffs have reserved all their rights with respect to subject matter jurisdiction.
14 AC ¶ 12.
- 15 • City and County of San Francisco/City of Oakland. The City and County of San Francisco
16 and the City of Oakland have been added as plaintiffs on the federal claims (only). AC ¶¶
17 137-142.
- 18 • San Francisco International Airport. San Francisco has added allegations regarding sea level
19 rise at San Francisco International Airport. SF AC ¶ 131(e).
- 20 • Additional causation allegations. Plaintiffs have added additional allegations related to
21 causation, including allegations based upon a 2014 study from the peer-reviewed literature
22 that sets forth the amount of carbon dioxide and methane in the atmosphere that is
23 attributable to each of the defendant’s production of fossil fuels. Based upon this study,
24 Plaintiffs’ amended complaints allege, *inter alia*, that “Defendants are collectively
25 responsible, through their production, marketing, and sale of fossil fuels, for over 11% of all
26 the carbon and methane pollution from industrial sources that has accumulated in the
27 atmosphere since the dawn of the Industrial Revolution.” AC ¶ 94.

- 1 • Additional personal jurisdiction allegations. Plaintiffs have added additional allegations of
2 contacts with California for all four defendants that have challenged personal jurisdiction. In
3 addition, in light of the Court’s ruling with respect to federal common law, Plaintiffs have
4 added allegations of contacts with the United States with respect to the two foreign
5 defendants. *See* Fed. R. Civ. P. 4(k)(2); *Axiom Foods, Inc. v. Acerchem Int’l, Inc.*, 874 F.3d
6 1064, 1072 (9th Cir. 2017); AC ¶¶ 16-17, 19, 22, 25, 28, 33-73.
- 7 • The Eastern Pacific Ocean is Experiencing Sea Level Rise, Including Along the coast of the
8 Americas. The amended complaints include allegations based upon the most recent (2013)
9 IPCC report demonstrating that the *long-term* (1950-2012) sea level rise trend in San
10 Francisco Bay is consistent with the global sea level rise trend over the same time period.
11 The amended complaints include a graph from the 2013 IPCC report demonstrating this long-
12 term sea level rise trend and correlation in the Bay; defendants excised this graph from their
13 tutorial slides (*see* defendants’ Part II tutorial slide nos. 22-23), which purported to show that
14 sea level was falling in the eastern Pacific Ocean along the coast of the Americas based upon
15 satellite records from 1992-2012. The amended complaints also: (1) allege that the *full*
16 satellite record (1992-2018) shows that sea levels in fact are rising in the Eastern Pacific,
17 including along the coast of the Americas; (2) include a world map from the U.S. National
18 Oceanic and Atmospheric Administration’s current web site depicting the global sea level
19 rise based upon the full satellite record; and (3) allege that the time period of satellite data
20 available when the IPCC published its report is recognized by scientists (and the IPCC itself
21 in the 2013 report) as too short a time period to detect a trend in climate change-induced sea
22 level rise. The amended complaints also include allegations based upon a peer-reviewed
23 study of the satellite data published very recently (Feb. 27, 2018) demonstrating that the full
24 satellite record shows sea level rise to be accelerating and therefore that previous projections
25 of future sea level rise have been too conservative. AC ¶¶ 125-127.
- 26 • The Fourth National Climate Assessment. The amended complaints add an allegation based
27 upon the United States Fourth National Climate Assessment, which was issued after Plaintiffs
28 filed their original complaints. AC ¶ 86.

- 1 • CO2 Climate Task Force. Plaintiffs have edited their allegations regarding the CO2 Climate
2 Task Force to add detail and reflect the fact that this task force appears to have been
3 convened and operated by fossil fuel companies directly, with the American Petroleum
4 Institute (“API”) serving as a convener and keeper of meeting minutes. The original
5 complaint had alleged that this entity was an “API task force.” AC ¶ 98(b).
- 6 • Additional allegations regarding Global Climate Coalition (“GCC”) presentation. Plaintiffs
7 have added detail and context to their allegations regarding an internal GCC presentation.
8 AC ¶ 108.
- 9 • Express statement that lobbying activities are not at issue. Plaintiffs’ original complaints did
10 not seek to impose liability based upon any lobbying activities. Plaintiffs’ amended
11 complaints make this point expressly: “Nor do Plaintiffs seek to impose any liability for
12 lobbying activity; to the extent any particular promotional activity might have had dual goals
13 of both promoting a commercial product in the marketplace and influencing policy, Plaintiffs
14 invoke such activities for the purpose of the former, not the latter, and/or as evidence relevant
15 to show Defendants’ knowledge of the dangerous nature of their products.” AC ¶ 11.
- 16 • Global Climate Science Communications Team. References to this group have been omitted
17 from the amended complaints. While the group’s efforts to sow doubt about climate science
18 were unsavory, Plaintiffs seek to avoid unnecessary debates about whether this group was or
19 was not strictly focused on lobbying. Plaintiffs reserve their rights to take all discovery to
20 demonstrate the Defendants’ intent, which may include discovery with respect to this
21 organization.
- 22 • Miscellaneous. Plaintiffs have made additional, miscellaneous edits to the complaints.
23 Redline documents comparing the original and amended complaints are attached hereto for
24 the Court’s convenience as Exhibits A and B. AC ¶¶ 5-6, 8-9, 12-13, 80, 82, 87-88, 92, 94-
25 95, 99-100, 104, 113, 115-116, 130, 132, 146.

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27 Dated: April 4, 2018

Respectfully submitted,

28 ** /s/ Erin Bernstein

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** Pursuant to Civ. L.R. 5-1(i)(3), the electronic
filer has obtained approval from this signatory.

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