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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

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

19 Plaintiffs,

20 v.

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

25 Defendants.

First Filed Case: 3:17-cv-06011-WHA  
Related Case: 3:17-cv-06012-WHA

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

**STIPULATION AND ~~PROPOSED~~  
ORDER REGARDING BP P.L.C.'S  
MOTION TO DISMISS AND  
JURISDICTIONAL DISCOVERY**

Judge: Honorable William H. Alsup

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<p>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,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>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,</p> <p style="text-align: center;">Defendants.</p>
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Case No. 3:17-cv-06012-WHA

**STIPULATION AND ~~PROPOSED~~ ORDER REGARDING BP P.L.C.'S MOTION TO DISMISS AND JURISDICTIONAL DISCOVERY**

Judge: Honorable William H. Alsup

1 WHEREAS, on April 19, 2018, all Defendants in the above-styled cases filed a motion to  
2 dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), while some defendants—including  
3 Defendant BP p.l.c. (“BP”)—filed a separate motion to dismiss pursuant to Federal Rule of Civil  
4 Procedure 12(b)(2)<sup>1</sup>;

5 WHEREAS, BP’s Rule 12(b)(2) motion to dismiss asserted two distinct grounds for  
6 dismissal: failure to adequately plead that alleged in-forum activities were a “but-for” cause of  
7 Plaintiffs’ alleged injury (“But-For Argument”); and that the exercise of personal jurisdiction over  
8 BP was unreasonable under the circumstances (“Unreasonableness Argument”);

9 WHEREAS, BP also submitted sworn declarations by William Jeffries (“Jeffries  
10 Declaration”), John D. Lombardo (“Lombardo Declaration”) and Donna Sanker (“Sanker  
11 Declaration”) to support its But-For Argument;

12 WHEREAS, on May 25, 2018, “[f]or the reasons stated on the record” at the hearing on  
13 May 24, 2018, the Court ordered “jurisdictional discovery” as to BP and certain other Defendants,  
14 and ordered supplemental briefing on the relevant motions to dismiss following the conclusion of  
15 that discovery<sup>2</sup>;

16 WHEREAS, it is in the interests of all parties to speed a resolution of the Rule 12(b)(6) and  
17 12(b)(2) motions;

18 WHEREAS, BP withdraws the Jeffries Declaration, the Lombardo Declaration, and the  
19 Sanker Declaration and all exhibits to the three declarations, and Plaintiffs agree that, in light of this  
20 withdrawal, jurisdictional discovery is no longer necessary;

21 WHEREAS, BP will promptly file, for the convenience of the Court, substitute briefs in  
22 support of its motion to dismiss under Rule 12(b)(2) that eliminate reference to the withdrawn  
23 factual record and contain no new legal arguments;

24 WHEREAS, Plaintiffs and BP agree that BP’s withdrawal of the Jeffries Declaration,  
25 Lombardo Declaration and Sanker Declaration concerning specific personal jurisdiction in these cases  
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27 <sup>1</sup> See ECF 219, 17-cv-6011; ECF 184, 17-cv-6012.

28 <sup>2</sup> See ECF 259, 17-cv-6011; ECF 217, 17-cv-6012.

1 shall have the same effect as if BP had not presented that evidence nor made arguments based upon  
2 that evidence in its motion to dismiss, and that this withdrawal is without prejudice to BP's right to  
3 contest any issue concerning the merits of Plaintiffs' claims or BP's right to contest personal  
4 jurisdiction in other cases;

5 NOW THEREFORE, Plaintiffs and BP p.l.c. HEREBY STIPULATE AND AGREE, subject to  
6 the approval and order of the Court, as follows:

7 1. Without prejudice to BP p.l.c.'s right to support a personal jurisdiction motion with  
8 a factual record at a future time beyond the motion to dismiss stage in these cases, if necessary, or  
9 in any other case, BP p.l.c. withdraws the factual record (specifically including the Declarations of  
10 William Jeffries, John D. Lombardo, and Donna Sanker, including all exhibits to these  
11 Declarations) (together, "factual record"), tendered in support of BP p.l.c.'s motion to dismiss  
12 under Rule 12(b)(2), such that BP p.l.c.'s Rule 12(b)(2) motion will then be based solely on the  
13 allegations of the First Amended Complaints (including materials referenced therein);

14 2. BP p.l.c. accepts that the Court should decide the motion based on the facts alleged  
15 in Plaintiffs' First Amended Complaints, and that such facts are uncontroverted for purposes of  
16 BP's motion;

17 3. Once this stipulation has been submitted and approved by the Court, BP p.l.c. will  
18 promptly file, for the convenience of the Court, substitute briefs in support of its motion to dismiss  
19 under Rule 12(b)(2) that eliminate reference to the withdrawn factual record and contain no new  
20 legal arguments;

21 4. Plaintiffs withdraw the discovery served on BP p.l.c., and BP p.l.c. will forgo any  
22 jurisdictional discovery against Plaintiffs in relation to or pursuant to the Court's May 24 hearing;

23 5. BP p.l.c.'s Rule 12(b)(2) motion, which does not challenge Plaintiffs' allegations  
24 regarding the purposeful direction requirement of specific jurisdiction, will then be ripe for decision  
25 together with the comparable Rule 12(b)(2) motions of defendants Exxon Mobil Corporation, Royal  
26 Dutch Shell plc and ConocoPhillips;

1           6.       This agreement does not affect the rights of either party to assert any other argument,  
2 claim, or defense in these cases, to the extent permitted by state or federal law, the Federal Rules of  
3 Civil Procedure, or the Federal Rules of Evidence; and

4           7.       This agreement does not affect the rights of either party to seek appeal from, fees or  
5 costs for, or any other right or remedy relating to the Rule 12(b)(6) motion currently pending in  
6 these cases in this Court.

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8 **IT IS SO STIPULATED.**  
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1 Dated: June 20, 2018

Respectfully submitted,

2 By: /s/ Jonathan W. Hughes

\*\* /s/ Matthew D. Goldberg

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\*\* Pursuant to Civ. L.R. 5-1(i)(3), the  
electronic signatory has obtained approval  
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20 \*\* Pursuant to Civ. L.R. 5-1(i)(3), the electronic  
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22 \*\* /s/ Steve W. Berman

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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 25, 2018.



THE HONORABLE WILLIAM ALSUP  
UNITED STATES DISTRICT COURT JUDGE