

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

MAYOR AND CITY COUNCIL OF
BALTIMORE,

Plaintiff,

v.

BP P.L.C. et al.,

Defendants.

Case No. 1:18-cv-02357-ELH

**REPLY TO PLAINTIFF'S OPPOSITION TO CONDITIONAL MOTION TO STAY
EXECUTION OF REMAND ORDER SHOULD THE COURT
GRANT THE PENDING MOTION TO REMAND¹**

Defendants' Conditional Motion to Stay requests that, if the Court grants Plaintiff's Motion to Remand, then it concurrently grant a 30-day stay, during which Defendants would exercise their appeal rights and seek a further stay pending appeal. ECF No. 161.² Plaintiff expressly agrees in its nominal opposition to Defendants' Motion that any remand order should be automatically stayed under Fed. R. Civ. P. 62(a). ECF No. 162 at 2. Rule 62(a), which has been amended since *Northrop Grumman Tech. v. DynCorp Int'l, LLC*, 2016 WL 3180775 (E.D. Va. June 7, 2016), provides for a 30-day stay after entry of judgment, not 14 days as Plaintiff incorrectly asserts. *See* Fed. R. Civ. P. 62(a). Accordingly, Defendants' request for a 30-day

¹ This Reply is submitted subject to and without waiver of any defense, affirmative defense, or objection, including personal jurisdiction, insufficient process, or insufficient service of process.

² A 30-day stay, as permitted by the Federal Rules, will provide Defendants time to request a further stay pending appeal for many of the same reasons that such a stay was granted by the district court in the cases now pending in the United States Court of Appeals for the Ninth Circuit, the appeals of which are now fully briefed. *See* Case Nos. 18-15499, 18-15502, 18-15503, and 18-16376 (9th Cir.). The appeal of the dismissal of the climate change case now pending in the Second Circuit (which was originally filed in federal court), is also fully briefed. Case No. 18-2188 (2d Cir.).

stay is not “excessive,” as Plaintiff asserts, but rather is the precise amount of time “contemplated by the Federal Rules.” ECF No. 162 at 2.

For these reasons and those stated in Defendants’ Conditional Motion to Stay, Defendants respectfully request that this Court stay the execution of any remand order that it may enter in this case for 30 days, either by entering the conditional stay in the text of the remand order itself or by concurrently entering the proposed Order attached to Defendants’ Conditional Motion.

Respectfully submitted,

CHEVRON CORP. AND CHEVRON
U.S.A., INC.
By Counsel

Dated: April 12, 2019

By: /s/ Ty Kelly
Ty Kelly (Bar No. 27166)
Jonathan Biran (Bar No. 28098)
BAKER, DONELSON, BEARMAN,
CALDWELL, & BERKOWITZ, P.C.
100 Light Street, 19th Floor
Baltimore, MD 21202
Telephone: (410) 685-1120
E-mail: tykelly@bakerdonelson.com
E-mail: jbiran@bakerdonelson.com

Theodore J. Boutrous, Jr. (*pro hac vice*)
Joshua S. Lipshutz (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
Telephone: (213) 229-7000
Facsimile: (213) 229-7520
E-mail: tboutrous@gibsondunn.com
E-mail: jlipshutz@gibsondunn.com

Anne Champion (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, NY 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-5281
E-mail: achampion@gibsondunn.com

Neal S. Manne (*pro hac vice*)
SUSMAN GODFREY LLP
1000 Louisiana, Suite 5100
Houston, TX 77002
Telephone: (713) 651-9366
Facsimile: (713) 654-6666
E-mail: nmanne@susmangodfrey.com

*Attorneys for Defendants CHEVRON
CORPORATION and
CHEVRON U.S.A., INC.*

By: /s/ John B. Isbister

John B. Isbister (Bar No. 00639)
Jaime W. Luse (Bar No. 27394)
TYDINGS & ROSENBERG LLP
One East Pratt Street, Suite 901
Baltimore, MD 21202
Telephone: 410-752-9700
Facsimile: 410-727-5460
Email: jisbister@tydingslaw.com
Email: jluse@tydingslaw.com

Philip H. Curtis (*pro hac vice*)
Nancy G. Milburn (*pro hac vice*)
ARNOLD & PORTER KAYE SCHOLER
250 West 55th Street
New York, NY 10019-9710
Telephone: (212) 836-8383
Facsimile: (212) 715-1399
E-mail: philip.curtis@arnoldporter.com
E-mail: nancy.milburn@arnoldporter.com

By: /s/ Craig A. Thompson

Craig A. Thompson, (Bar No. 26201)
VENABLE LLP
750 East Pratt Street, Suite 900
Baltimore, MD 21202
Telephone: (410) 244-7605
Facsimile: (410) 244-7742
Email: cathompson@venable.com

Theodore V. Wells, Jr. (*pro hac vice*)
Daniel J. Toal (*pro hac vice*)
Jaren Janghorbani (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: (212) 373-3089
Fax: (212) 492-0089
E-mail: twells@paulweiss.com
E-mail: dtoal@paulweiss.com
E-mail: jjanghorbani@paulweiss.com

*Attorneys for Defendants EXXON MOBIL
CORP. and EXXONMOBIL OIL CORP.*

Matthew T. Heartney (admitted *pro hac vice*)
ARNOLD & PORTER KAYE SCHOLER
777 South Figueroa Street, 44th Floor
Los Angeles, California 90017-5844
Telephone: (213) 243-4000
Facsimile: (213) 243-4199
E-mail: matthew.heartney@arnoldporter.com

*Attorneys for Defendants BP PRODUCTS NORTH
AMERICA INC., BP P.L.C. and BP AMERICA
INC.*

By: /s/ James M Webster, III

David C. Frederick (*pro hac vice*)
James M. Webster, III (Bar No. 23376)
Brendan J. Crimmins (*pro hac vice*)
Grace Knofczynski (*pro hac vice*)
KELLOGG, HANSEN, TODD,
FIGEL & FREDERICK, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
Telephone: (202) 326-7900
Facsimile: (202) 326-7999
E-mail: dfrederick@kellogghansen.com
E-mail: jwebster@kellogghansen.com
E-mail: bcrimmins@kellogghansen.com
E-mail: gknofczynski@kellogghansen.com

Jerome C. Roth (*pro hac vice*)
Elizabeth A. Kim (*pro hac vice*)
MUNGER, TOLLES & OLSON LLP
560 Mission Street
Twenty-Seventh Floor
San Francisco, California 94105-2907
Telephone: (415) 512-4000
Facsimile: (415) 512-4077
E-mail: jerome.roth@mto.com
E-mail: elizabeth.kim@mto.com

*Attorneys for Defendants SHELL OIL
COMPANY and ROYAL DUTCH SHELL, plc*

By: /s/ Warren N. Weaver

Warren N Weaver (Bar No. 3600)
Peter Sheehan (Bar No. 29310)
WHITEFORD TAYLOR AND
PRESTON LLP
Seven Saint Paul St Ste 1400
Baltimore, MD 21202
Telephone: (410) 347-8757
Facsimile: (410) 223-4177
Email: wwweaver@wtplaw.com

Nathan P. Eimer, Esq. (*pro hac vice*)
Pamela R. Hanebutt, Esq. (*pro hac vice*)
Lisa S. Meyer, Esq. (*pro hac vice*)
Raphael Janove, Esq. (*pro hac vice*)
EIMER STAHL LLP
224 South Michigan Ave., Ste. 1100
Chicago, IL 60604
Telephone: (312) 660-7600
Facsimile: (312) 692-1718
E-mail: neimer@EimerStahl.com
E-mail: phanebutt@EimerStahl.com
E-mail: lmeyer@EimerStahl.com
E-mail: rjanove@Eimerstahl.com

*Attorneys for Defendant CITGO
PETROLEUM CORPORATION*

By: /s/ Michael Alan Brown

Michael A. Brown, Esq. (Bar No. 07483)
Leianne S. McEvoy, Esq. (Bar No. 28280)
NELSON MULLINS RILEY &
SCARBOROUGH LLP
100 S. Charles Street, Suite 1200
Baltimore, Maryland 21202
Telephone: 443-392-9400
Facsimile: 443-392-9499
Mike.brown@nelsonmullins.com
Leianne.mcevoy@nelsonmullins.com

John F. Savarese, Esq. (*pro hac vice*)
Ben M. Germana, Esq. (*pro hac vice*)
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, NY 10019
PHONE: (212) 403-1000
FAX: (212) 403-2000
E-mail: JFSavarese@wlrk.com
E-mail: BMGermana@wlrk.com

Sean C. Grimsley, Esq. (*pro hac vice*)
Jameson R. Jones, Esq. (*pro hac vice*)
BARTLIT BECK LLP
1801 Wewatta Street, Suite 1200
Denver, CO 80202
PHONE: (303) 592-3100
FAX: (303) 592-3140
E-mail: sean.grimsley@bartlit-beck.com
E-mail: jameson.jones@bartlit-beck.com

*Attorneys for Defendants
CONOCOPHILLIPS and
CONOCOPHILLIPS COMPANY*

By: /s/ Jonathan C. Su

Jonathan Chunwei Su (Bar No. 16965)
LATHAM AND WATKINS LLP
555 Eleventh St NW, Ste 1000
Washington, DC 20004-1304
Telephone: (202) 637-2200
Facsimile: (202) 637-2201
Email: jonathan.su@lw.com

Steven M. Bauer (*pro hac vice*)
Margaret A. Tough (*pro hac vice*)
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111-6538
PHONE: (415) 391-0600
FAX: (415) 395-8095
E-mail: steven.bauer@lw.com
E-mail: margaret.tough@lw.com

Attorneys for Defendant PHILLIPS 66

By: /s/ Shannon S. Broome
Shannon S. Broome (*pro hac vice*)
HUNTON ANDREWS KURTH LLP
50 California Street
San Francisco, CA 94111
Tel: (415) 975-3718
Fax: (415) 975-3701
E-mail: SBroome@HuntonAK.com

Shawn Patrick Regan (*pro hac vice*)
HUNTON ANDREWS KURTH LLP
200 Park Avenue
New York, NY 10166
Tel: (212) 309-1046
Fax: (212) 309-1100
E-mail: SRegan@HuntonAK.com

Ann Marie Mortimer (*pro hac vice*)
HUNTON ANDREWS KURTH LLP
550 South Hope Street, Suite 2000
Los Angeles, CA 90071
Tel: (213) 532-2103
Fax: (213) 312-4752
E-mail: AMortimer@HuntonAK.com

Perie Reiko Koyama (Bar No. 20017)
HUNTON ANDREWS KURTH LLP 2200
Pennsylvania Ave. NW
Washington, DC 20037
Telephone: (202) 778-2274
Email: pkoyama@huntonak.com

*Attorneys for Defendants MARATHON
PETROLEUM CORP. and SPEEDWAY, LLC*

By: /s/ Emily Wilson
Emily Wilson (Bar No. 20780)
Megan Berge (*pro hac vice*)
BAKER BOTTS L.L.P.
1299 Pennsylvania Ave., NW
Washington, D.C. 20004
Telephone: (202) 639-7700
Facsimile: (202) 639-1171
Email: Emily.wilson@bakerbotts.com
Email: megan.berge@bakerbotts.com

Scott Janoe (*pro hac vice*)
BAKER BOTTS L.L.P.
910 Louisiana Street
Houston, Texas 77002
Telephone: (713) 229-1553
Facsimile: (713) 229 7953
Email: scott.janoe@bakerbotts.com

Attorneys for Defendant HESS CORP.

By: /s/ Michelle N. Lipkowitz

Michelle N. Lipkowitz (Bar No. 27188)
Thomas K. Prevas (Bar No. 29452)
SAUL EWING ARNSTEIN & LEHR LLP
Baltimore, Maryland 21202-3133
Telephone: (410) 332-8683
Facsimile (410) 332-8123
Email: michelle.lipkowitz@saul.com
Email: Thomas.prevas@saul.com

*Attorneys for Defendants CROWN CENTRAL
LLC, and CROWN CENTRAL NEW
HOLDINGS LLC*

By: /s/ Tracy Roman

Kathleen Taylor Sooy (*pro hac vice*)
Tracy A. Roman (Bar No. 11245)
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004
Telephone: 202-624-2500
Facsimile: 202-628-5116
Email: ksooy@crowell.com
Email: troman@crowell.com

*Attorneys for Defendants CNX
RESOURCES CORPORATION,
CONSOL ENERGY INC. and
CONSOL MARINE TERMINALS LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of April 2019, the foregoing document was filed through the ECF system and was therefore served on all registered participants identified on the Notice of Electronic Filing.

/s/ Ty Kelly

Ty Kelly