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## VIA ECF

Maria R. Hamilton  
Clerk of Court  
U.S. Court of Appeals for the First Circuit  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2500  
Boston, MA 02210

Re: *State of Rhode Island v. Shell Oil Prods. Co., et al.*, No. 19-1818

Dear Ms. Hamilton:

Defendant-Appellant Chevron writes in response to Plaintiff-Appellee's letter regarding *Riggs v. Airbus Helicopters, Inc.*, 939 F.3d 981 (9th Cir. 2019).

In *Riggs*, plaintiffs brought a design-defect action against a helicopter manufacturer in state court after one of the defendant's helicopters was involved in a crash. *Id.* at 983. The defendant removed the action under the federal officer removal statute on the ground that the Federal Aviation Administration ("FAA") had delegated its authority to "inspect aircraft designs and issue certifications" affirming that its aircrafts complied with FAA regulations. *Id.* at 984. The Ninth Circuit held that this was insufficient to support removal because the delegation of authority to self-certify compliance with FAA regulations was in practice indistinguishable from "mere compliance with federal regulations," which "did not satisfy the 'acting under' requirement of §1442(a)(1)." *Id.* at 990 (emphasis added).

Here, in contrast, there is no question that Defendants "acted under" the direction of federal officers. In fact, the district court did not dispute this, instead holding that there was an insufficient "causal connection" between Plaintiff's claims and "actions Defendants took while 'acting under' federal officers or agencies." JA.434. While that conclusion was mistaken, AOB.38-41, *Riggs* does not shed any light on this issue.

Moreover, unlike in *Riggs*, Defendants' federal contracts and leases go far beyond "mere compliance" with federal law. Defendants' contracts affirmatively required them to produce fuel for the government in wartime and to produce oil and gas under the direction and control of federal officers. AOB.40-41. This case is thus much closer to *Goncalves*, discussed in *Riggs* and cited in Defendants' Opening Brief, where the Ninth Circuit "concluded that [a]

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private insurer ‘acted under’ a federal officer” because, *inter alia*, the government “entered into a contract with the private insurer for a negotiated fee.” *Riggs*, 939 F.3d at 986 (quoting *Goncalves By & Through Goncalves v. Rady Children’s Hosp. San Diego*, 865 F.3d 1237, 1245-47 (9th Cir. 2017)); *see also* AOB.41. Defendants’ conduct does not involve the type of “mere compliance” with federal law presented in *Riggs*, where the defendant lacked any contractual relationship with the federal government.

Sincerely,

/s/ Theodore J. Boutrous, Jr.

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Chevron Corporation and Chevron U.S.A.

cc: All counsel of record (via ECF)