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PROTECTING PEOPLE AND THE PLANET

April 12, 2022

Via ECF

Molly C. Dwyer
Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

Re: *County of San Mateo v. Chevron Corp.*, No. 18-15499, consolidated with *City of Imperial Beach v. Chevron Corp.*, No. 18-15502; *County of Marin v. Chevron Corp.*, No. 18-15503; *County of Santa Cruz v. Chevron Corp.*, No. 18-16376; Plaintiffs-Appellees' Citation of Supplemental Authorities

Dear Ms. Dwyer,

Plaintiffs-Appellees submit *Mayor & City Council of Baltimore v. BP P.L.C.*, No. 19-1644, 2022 WL 1039685 (4th Cir. Apr. 7, 2022) (**Ex. A**), as supplemental authority. In this 93-page opinion, the Fourth Circuit affirmed remand of Baltimore's state-law claims for climate deception, rejecting the same removal arguments advanced by Defendants-Appellees here.

First, the Fourth Circuit dismissed the defendants' "speculative and policy-laden arguments" for OCSLA jurisdiction. *Id.* 61. The "plain meaning[]" of "§ 1349(b)(1) require[d] a but-for connection" between Baltimore's claims and an OCS operation. *Id.* 57-58. That connection was missing because Baltimore's injuries would exist "irrespective of Defendants' activities on the OCS." *Id.* 59.

Second, the Fourth Circuit "decline[d] to endorse Defendants' overreaching approach" to federal-enclave jurisdiction, *id.* 53, explaining that removal basis applies only when the alleged "injuries are sustained *within* an enclave's boundaries," *id.* 54. Because Baltimore only sought "relief for harms sustained on non-federal land," federal-enclave jurisdiction did not exist. *Id.* 55.

Third, the Fourth Circuit held that "Baltimore's suit [was] too remote for bankruptcy removal to lie." *Id.* 63. The defendants "failed to show that Baltimore's suit ha[d] a 'close nexus' or [was] 'related' to any bankruptcy plan." *Id.* 65. Regardless, Baltimore's claims were statutorily exempted from bankruptcy removal because they represented "a valid exercise of Baltimore's police power." *Id.* 66.

Fourth, the panel "reject[ed] Defendants' far-reaching view of admiralty jurisdiction." *Id.* 67. The defendants failed the "location test" because "Baltimore never allege[d] that any vessel on navigable waters caused any of its land-based injuries." *Id.* 71-72. Indeed, the question of admiralty jurisdiction was "easily resolved under the well-pleaded complaint rule." *Id.* 72.

Finally, the panel followed this Court's arising-under analysis in *City of Oakland v. BP PLC*, 969 F.3d 895 (9th Cir. 2020). The Fourth Circuit "resoundingly" rebuffed the defendants'

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federal-common-law theory of removal. *Id.* 17. It rejected *Grable* jurisdiction because Baltimore’s claims were “a far cry from what the [Supreme] Court has deemed sufficient to satisfy the ‘necessarily raised’ prong.” *Id.* 41. And it dispensed with the defendants’ complete-preemption arguments, all of which “rest[ed] on a fundamental confusion of Baltimore’s claims.” *Id.* 51.

Respectfully submitted,

/s/ Victor M. Sher

Victor M. Sher
Sher Edling LLP

Counsel for Plaintiffs-Appellees
in Nos. 18-15499, 18-15502, 18-15503,
and 18-16376

cc: All Counsel of Record (via ECF)