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15 and CITY OF KIVALINA

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E-filing

11 UNITED STATES DISTRICT COURT
12 CV 08
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

1138

SBA

14 NATIVE VILLAGE OF KIVALINA and CITY)
15 OF KIVALINA,)

16 Plaintiffs,)

17 v.)

18 EXXONMOBIL CORPORATION;)
19 BP P.L.C.; BP AMERICA, INC.; BP)
20 PRODUCTS NORTH AMERICA, INC.;)
21 CHEVRON CORPORATION; CHEVRON)
22 U.S.A., INC.; CONOCOPHILLIPS COMPANY;)
23 ROYAL DUTCH SHELL PLC; SHELL OIL)
24 COMPANY; PEABODY ENERGY)
25 CORPORATION; THE AES CORPORATION;)
26 AMERICAN ELECTRIC POWER COMPANY,)
27 INC.; AMERICAN ELECTRIC POWER)
28 SERVICES CORPORATION; DTE ENERGY)
CORPORATION; DUKE ENERGY)
CORPORATION; DYNEGY HOLDINGS, INC.;)
EDISON INTERNATIONAL; MIDAMERICAN)
ENERGY HOLDINGS COMPANY; MIRANT)
CORPORATION; NRG ENERGY; PINNACLE)
WEST CAPITAL CORPORATION; RELIANT)
ENERGY, INC.; THE SOUTHERN)
COMPANY; AND XCEL ENERGY, INC.)

Defendants.)

Civ. Action No.

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

(Federal Common Law Public Nuisance;
28 U.S.C. §§ 1331, 2201)

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NORTHERN DISTRICT OF CALIFORNIA

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1 I. NATURE OF THE ACTION

2 1. This is a suit to recover damages from global warming caused by defendants'
3 actions. Plaintiffs, the Native Village of Kivalina and the City of Kivalina (collectively
4 "Kivalina"), are the governing bodies of an Inupiat village of approximately 400 people.
5 Kivalina is located on the tip of a six-mile barrier reef located between the Chukchi Sea and
6 the Kivalina and Wulik Rivers on the Northwest coast of Alaska, some seventy miles north of
7 the Arctic Circle. See photograph of Kivalina attached as Exh. A. Kivalina residents are
8 Inupiat Eskimo whose ancestors occupied the area since time immemorial. Global warming is
9 destroying Kivalina and the village thus must be relocated soon or be abandoned and cease to
10 exist. Relocating will cost hundreds of millions of dollars and is an urgent matter. The U.S.
11 Army Corps of Engineers and the U.S. Government Accountability Office have both
12 concluded that Kivalina must be relocated due to global warming and have estimated the cost
13 to be from \$95 million to \$400 million.

14 2. Kivalina brings this action against defendants under federal common law and,
15 in the alternative, state law, to seek damages for defendants' contributions to global warming,
16 a nuisance that is causing severe harms to Kivalina. Kivalina further asserts claims for civil
17 conspiracy and concert of action for certain defendants' participation in conspiratorial and
18 other actions intended to further the defendants' abilities to contribute to global warming.

19 3. Defendants contribute to global warming through their emissions of large
20 quantities of greenhouse gases. Defendants in this action include many of the largest emitters
21 of greenhouse gases in the United States. All Defendants directly emit large quantities of
22 greenhouse gases and have done so for many years. Defendants are responsible for a
23 substantial portion of the greenhouse gases in the atmosphere that have caused global warming
24 and Kivalina's special injuries.

25 4. Greenhouse gases trap atmospheric heat and thus cause global warming.
26 Global warming is destroying Kivalina through the melting of Arctic sea ice that formerly
27 protected the village from winter storms. See photograph of Kivalina attached as Exh. B. The
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1 result of the increased storm damage is a massive erosion problem. Houses and buildings are
2 in imminent danger of falling into the sea as the village is battered by storms and its ground
3 crumbles from underneath it. See photograph of Kivalina attached as Exh. C. Critical
4 infrastructure is imminently threatened with permanent destruction. If the entire village is not
5 relocated soon, the village will be destroyed.

6 5. Each of the defendants knew or should have known of the impacts of their
7 emissions on global warming and on particularly vulnerable communities such as coastal
8 Alaskan villages. Despite this knowledge, defendants continued their substantial contributions
9 to global warming. Additionally, some of the defendants, as described below, conspired to
10 create a false scientific debate about global warming in order to deceive the public. Further,
11 each defendant has failed promptly and adequately to mitigate the impact of these emissions,
12 placing immediate profit above the need to protect against the harms from global warming.

13 6. Kivalina seeks monetary damages for defendants' past and ongoing
14 contributions to global warming, a public nuisance, and damages caused by certain defendants'
15 acts in furthering a conspiracy to suppress the awareness of the link between these emissions
16 and global warming.

17 II. JURISDICTION AND VENUE

18 A. Subject Matter Jurisdiction

19 7. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331
20 because Kivalina asserts a claim against all defendants under federal common law.

21 8. Subject matter over the state law claims is proper in this court pursuant to 28
22 U.S.C. § 1367(a) because such claims are so related to claims in this action within the Court's
23 original jurisdiction that they form part of the same case or controversy under Article III of the
24 United States Constitution.

25 B. Personal Jurisdiction

26 9. This Court's exercise of general jurisdiction is appropriate as to each of the
27 defendants because defendants reside in California or have substantial or continuous and
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