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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>STATE OF HAWAI'I</b><br><b>CIRCUIT COURT OF THE</b><br><b>FIRST CIRCUIT</b>                                                                                                                                                                                                                                           | <b>SUBPOENA</b><br><b>NOTICE TO APPEAR</b><br><b>✓ SUBPOENA DUCES TECUM</b>                                                                                                        | <b>Electronically Filed</b><br><b>FIRST CIRCUIT</b><br><b>1CCV-20-0000380</b><br><b>12-JUN-2026</b><br><b>12:33 PM</b><br><b>Dkt. 2548 SDT</b> |
| <b>CASE NUMBER</b><br><b>1CCV-20-0000380</b>                                                                                                                                                                                                                                                                             | <b>CASE NAME</b><br><br>CITY AND COUNTY OF HONOLULU<br>and HONOLULU BOARD OF WATER<br>SUPPLY,<br><br><div style="text-align: right;">Plaintiffs,</div><br>vs.<br>SUNOCO LP et al., |                                                                                                                                                |
| <b>ATTORNEY (NAME and ADDRESS)</b><br><br>Glenn H. Uesugi<br>Honolulu Department of Corporation Counsel<br>1001 Bishop Street, Suite 2020<br>Honolulu, HI 96813<br><br>William Liang<br>Sher Edling LLP, 100 Montgomery St., Ste. 1410,<br>San Francisco, CA 94104, Tel: 628-231-2500 /<br>Email: william@sheredling.com |                                                                                                                                                                                    |                                                                                                                                                |

|                                                                                                                                                                                                                                                                                                                                                    |                                      |                                                                                        |                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|----------------------------------------------------------------------------------------|------------------------------------|
| <b>THE STATE OF HAWAI'I TO:</b><br><b>ANY OFFICER AUTHORIZED BY LAW TO</b><br><b>SERVE SUBPOENAS IN THE STATE OF HAWAI'I</b><br><b>YOU ARE COMMANDED</b> to subpoena the individual<br>named below.                                                                                                                                                | <b>COMMENTS:</b><br><br>See attached |                                                                                        |                                    |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; padding: 5px;">NAME AND ADDRESS OF WITNESS</td> </tr> <tr> <td style="padding: 5px;">           American Petroleum Institute<br/>           200 Massachusetts Avenue, NW<br/>           Washington, D.C. 20001         </td> </tr> </table> | NAME AND ADDRESS OF WITNESS          | American Petroleum Institute<br>200 Massachusetts Avenue, NW<br>Washington, D.C. 20001 | ATTACH CONTINUATION PAGE IF NEEDED |
| NAME AND ADDRESS OF WITNESS                                                                                                                                                                                                                                                                                                                        |                                      |                                                                                        |                                    |
| American Petroleum Institute<br>200 Massachusetts Avenue, NW<br>Washington, D.C. 20001                                                                                                                                                                                                                                                             |                                      |                                                                                        |                                    |

WITNESS, YOU ARE COMMANDED to appear at the time and place indicated to testify as a witness on behalf of the

✓ PLAINTIFF    ☐ DEFENDANT

✓ You are further ordered to bring with you the items listed in the comments section.

|                                                                                                                                  |                                         |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| <b>DATE</b><br>July 27, 2026                                                                                                     | <b>TIME</b><br>2:00 p.m. (Eastern Time) |
| <b>LOCATION/ROOM</b><br>Remote deposition via Zoom. Information regarding remote access shall be provided before the deposition. |                                         |

DISOBEDIENCE of this subpoena may be punished as contempt by this court.

|                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: <a href="http://www.courts.state.hi.us">http://www.courts.state.hi.us</a> | <div style="text-align: center;"> <b>Effective Date of 1-DEC-2021</b><br/> <b>Signed by: /s/ Patsy Nakamoto</b><br/> <b>Clerk, 1st Circuit, State of Hawai'i</b> </div> <div style="text-align: right;">  </div> |
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If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator of the First Circuit as soon as possible to allow the court time to provide an accommodation: Call Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402 OR Send an e-mail to: [adarequest@courts.hawaii.gov](mailto:adarequest@courts.hawaii.gov). The court will try to provide, but cannot guarantee, your requested auxiliary aid, service or accommodation.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                               |                                                                                                                           |               |  |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------|---------------|--|--|
| <b>STATE OF HAWAI'I</b><br><b>CIRCUIT COURT OF THE</b><br><b>FIRST CIRCUIT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                               | <b>SUBPOENA /</b><br><b>SUBPOENA DUCES TECUM</b><br><b>RETURN OF SERVICE</b>                                              |               |  |  |
| CASE NUMBER<br>1CCV-20-0000380                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                               | NAME AND ADDRESS OF WITNESS<br><br>American Petroleum Institute<br>200 Massachusetts Avenue, NW<br>Washington, D.C. 20001 |               |  |  |
| CASE NAME<br><br>CITY AND COUNTY OF HONOLULU<br>and HONOLULU BOARD OF WATER<br>SUPPLY,<br><br><div style="text-align: right;">Plaintiffs,</div><br>vs.<br>SUNOCO LP et al.,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                               |                                                                                                                           |               |  |  |
| SERVICE WAS<br>MADE AT:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>DATE:</b>                  | <b>TIME:</b>                                                                                                              | <b>PLACE:</b> |  |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                               |                                                                                                                           |               |  |  |
| <div style="text-align: right;">Comment(s):</div> <div style="margin-top: 10px;"> <input type="checkbox"/> I served the above named person.         </div> <div style="margin-top: 10px;"> <input type="checkbox"/> I served this subpoena on another individual. (explain)         </div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                               |                                                                                                                           |               |  |  |
| <div style="text-align: right;">Comment(s):</div> <div style="margin-top: 10px;"> <input type="checkbox"/> Unable to serve:         </div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                               |                                                                                                                           |               |  |  |
| <div style="text-align: right;">Comment(s):</div> <div style="margin-top: 10px;"> <input type="checkbox"/> Cancelled         </div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                               |                                                                                                                           |               |  |  |
| DATE:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | TYPE OR PRINT NAME OF SERVER: |                                                                                                                           | SIGNATURE     |  |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                               |                                                                                                                           |               |  |  |
| <div style="display: flex; align-items: flex-start;"> <div style="flex: 1;">  </div> <div style="flex: 4; padding-left: 10px;"> <p>             If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator of the First Circuit as soon as possible to allow the court time to provide an accommodation: Call Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402 OR Send an e-mail to: <a href="mailto:adarequest@courts.hawaii.gov">adarequest@courts.hawaii.gov</a>. The court will try to provide, but cannot guarantee, your requested auxiliary aid, service or accommodation.           </p> </div> </div> |                               |                                                                                                                           |               |  |  |

## **EXHIBIT 1**

### **DEFINITIONS**

1. **Defined terms.** Refer to Appendix C for a list of defined terms to use in answering these Document Requests. All references to specifically named entities herein and as referenced in Appendix C expressly Include all affiliates, parents, subsidiaries, predecessors, or successors of that named entity. Defined terms are provided to make the Requests more inclusive and should not be interpreted to exclude ordinary meanings or usages of a term. For example, a document that references “climate change” counts as a document concerning “Climate Change” as defined herein, even if the author of the document defines “climate change” differently than “Climate Change” as defined herein.

2. Terms not defined herein shall have the meanings assigned to them by applicable Hawai‘i law. Any term not defined herein or by applicable Hawai‘i law shall have its plain and ordinary meaning.

3. All use of terms in the singular Include the plural and vice versa, and the past tense Includes the present tense where the clear meaning is not destroyed by the change in tense.

4. All use of the term “all” shall be construed as “any or all” or “each and all,” as the context requires, so that each request shall be construed broadly, rather than narrowly, to bring within the scope of each request all responses that might otherwise be construed to be outside its scope.

5. All uses of the terms “and” and “or” are terms of inclusion and not of exclusion and should be construed disjunctively or conjunctively (like the term “and/or”), as necessary to bring within the scope of these Requests any Document or information that might otherwise be construed to be outside its scope, except where that would destroy the clear meaning of the request.

## INSTRUCTIONS

1. **Separate response to each Request.** Each Document Request shall be answered separately and fully in writing under oath by You. In answering these Document Requests, set forth the Document Request in full before stating Your response thereto. As to each Request, your response shall state (a) whether all responsive documents or things in your possession, custody, or control have been or will be produced; and (b) whether, after diligent search, no responsive documents or things are in your possession, custody, or control.
2. **Independent requests.** Each Document Request and subparagraph or subdivision thereof shall be construed independently, and no other Document Request or subparagraph or subdivision thereof shall be referred to or relied on for the purpose of limiting its scope except insofar as the Document Request or subparagraph or subdivision construed expressly refers to another Document Request or subparagraph or subdivision thereof. Examples of responsive documents are provided for avoidance of doubt and for clarity; they do not limit prior broader language outlining the scope of Requests, or limit the scope of Requests to examples or Documents that are similar to the examples.
3. **Possession, custody, or control.** Consistent with Hawai'i law and Your discovery obligations, these Document Requests seek all information available to You or subject to Your reasonable inquiry, Including information in the possession, custody, or control of You and Your parents, subsidiaries, and affiliates, and the officers, partners, members, directors, trustees, advisors, employees, representatives, agents, or advisors of the foregoing.
4. **Scope of search.** In your responses to these Requests, articulate with clarity the scope of

the search conducted or to be conducted for Documents responsive to these Requests. If the scope of the search changes during production, articulate with clarity the change in scope. If the scope of the search does not Include all locations, Including electronic storage locations, where responsive Documents or things reasonably might be found, explain why these locations have been excluded from the scope of the search.

5. **Objections.** To the extent that You consider any of these Document Requests to be objectionable, answer the portion of the Document Request to which You have no objection. Separately identify the portion of the Document Request thereof to which You lodge an objection and state the specific grounds on which You object.
6. **Attached and related Documents.** Each Request shall be deemed to Include a Request for all transmittal sheets, cover letters, exhibits, enclosures, and attachments to a Document in addition to the Document itself, without abbreviation or redaction, and any drafts of the Document.
7. **Use of singular, plural, and verb tense.** To bring within the scope of these Requests information that would otherwise be excluded, the singular form of a noun or pronoun shall be considered to Include the plural form of the noun or pronoun, and vice versa. Similarly, the use of any verb shall be considered to Include all other tenses of the verb.
8. **Electronically Stored Information (“ESI”) and Document Production.** You are requested to produce documents in the format specified in the Stipulated Order Regarding Discovery of Electronically Stored Information (“ESI Protocol”), entered by the Court on May 23, 2023 (Appendix D).
9. **Production of Documents.** Documents produced in response to these Requests shall be (a) legible in their entirety, without abbreviation or expurgation; (b) Bates-numbered or

otherwise sequentially marked in the lower right-hand corner; and (c) organized in such a way as to identify the Document Request (by number and letter) to which each Document is responsive.

10. **Incomplete Documents.** If any responsive Document cannot be produced in its entirety (Including any corresponding transmittal sheets, cover letters, exhibits, enclosures, and attachments), You shall produce it to the extent possible, and specify the reasons for Your inability to produce the remainder of the Document and describe all portions of the Document that are not produced.

11. **Bates numbers.** Consistent with the ESI Protocol, Bates numbers shall have a three or four-character alpha prefix which reflects the identity of the producer, followed by eight (8) numerals. There should be no space or other break or character between the three- to four-character alpha prefix and the eight numerals (e.g., ABC00000001).

12. **Lost, discarded, or destroyed Documents.** If any Documents responsive to these Requests have been partially or wholly destroyed, discarded, or lost, or are otherwise not capable of being produced, set forth the following information about the Document:

- (a) Dates on which the Document was created, last modified, and destroyed, lost, or discarded. If the dates do not appear on the Document, provide estimated dates with an indication that they are estimated;
- (b) Type of Document (e.g., letter, notes, memorandum, etc.);
- (c) Subject matter of the Document;
- (d) Title and file name of the Document;
- (e) Custodian of the Document;
- (f) Each Person who destroyed, lost, or discarded the Document;

(g) The reasons for and circumstances under which it was destroyed, lost, or discarded;  
and

(h) Whether the Document Included attachments, exhibits, or appendices and whether  
those too were lost, discarded, or destroyed.

13. **Privilege.** If You claim that any responsive Document is protected from discovery by the attorney-client privilege or any other privilege or protection (collectively, “privilege”), You must produce the non-privileged portion of any such Document by providing a copy of the Document with the purportedly privileged information redacted in a manner that clearly indicates which characters, lines, and other portions of the Document that are allegedly privileged. In addition, you must furnish a list identifying each Document for which a privilege is claimed and stating additional information sufficient for a court to determine whether the claimed privilege is applicable, Including the:

- (a) Date of the Document, or if no date appears on the Document, an estimated date with an indication that it is estimated;
- (b) Type of Document (e.g., letter, hand-written notes, memorandum, etc.);
- (c) Title and file name of the Document;
- (d) Identity of the authors or originators of the Document;
- (e) Identity of each addressee or recipient of the Document;
- (f) Subject matters of the Document;
- (g) Number of pages of the Document;
- (h) Exhibits, attachments, or appendices to the Document;
- (i) Precise basis, in detail, for the claimed privilege;
- (j) Custodian of the Document; and

(k) Bates number or Bates range of the Document.

14. **Supplemental productions.** These Document Requests are continuing and require further and supplemental production by You as and whenever You create or locate additional Documents, information, or things between the time of initial production and the final resolution of this action (Including grounds for withholding Documents).
15. **Ambiguity.** If You find any portions of these requests to be vague, ambiguous, or potentially overbroad depending on their meaning, contact us before serving your responses so that we can resolve the issue promptly and efficiently.
16. **Alterations.** Alteration, modification, concealment, removal, or destruction of responsive Documents are prohibited.
17. **Time period.** Unless otherwise specified, these Requests are limited to the period from 1950 to the end of fact discovery in the above-captioned action.

### **DOCUMENTS TO BE PRODUCED**

1. Organizational charts or other Documents sufficient to identify and describe Your internal corporate or operating structure between the years from 1950 to present, Including Documents sufficient to identify or describe all Your internal departments, divisions, teams, committees, task forces, or groups that conduct work Relating To Climate Change Research, Public Climate Change Communications, and Climate Change Topics.
2. Documents sufficient to describe Your document storage, retention, and/or destruction policies from 1950 to present.
3. All Documents Relating To the work of E. Bruce Harrison and the E. Bruce Harrison Company for You or the Global Climate Coalition between the years from 1950 to 2005, including the document entitled "Communication Proposal Prepared for the Global Climate Coalition by the E. Bruce Harrison Company" from around 1993, and all Documents referencing that document.
4. All Correspondence with Defendants from 1950 to present Relating To Fossil Fuel Products, Climate Change Topics, global warming, or the greenhouse effect.
5. All Correspondence with any of the following organizations, from 1950 to present, Relating To Fossil Fuel Products, Climate Change Topics, global warming, or the greenhouse effect:

- a. the Agencies, Trade Associations, Think Tanks, consulting firms, industry coalitions, non-profit organizations, or non-governmental organizations listed in Appendix A;
  - b. the academic institutions or affiliated centers, programs, events, workshops, seminars, symposiums, or similar groups listed in Appendix B.
6. All Documents from 1950 to present, of or Relating To any committees or subgroups Relating To climate science, research, impacts or climate change knowledge including: the CO2 and Climate Task Force (AQ-9 Task Force), Climate and Energy Task Force, Climate Change Steering Committee, Committee for Air & Water Conservation, Committee on Public Affairs, and Global Climate Science Communications Team.
7. All Documents Relating To the Global Climate Coalition.
8. All of the Documents listed below, as well as all Documents referencing any of the Documents listed below, any Documents Relating To Your knowledge of any of the Documents listed below, or Relating To Your participation in the creation of any of the Documents listed below:
- a. President's Science Advisory Committee, Restoring the Quality of Our Environment: Report of the Environmental Pollution Panel (Nov. 1965), <https://perma.cc/RC6U-ECCU>;
  - b. Frank N. Inkard, Meeting the Challenges of 1966, in 45 Proceedings of the American Petroleum Institute § I, 12 (1965);
  - c. Elmer Robinson & R.C. Robbins, Sources, Abundance, and Fate of Gaseous Atmospheric Pollutants, Stanford Rsch. Inst. (Feb. 1968), <https://perma.cc/7Y3F-9QA7>;
  - d. Elmer Robinson & R.C. Robbins, Sources, Abundance, and Fate of Gaseous Atmospheric Pollutants Supplement, Stanford Rsch. Inst. (June 1969);
  - e. Memorandum from R. J. Campion to J. T. Burgess, Comments on The API's Background Paper on CO2 Effects (Sept. 6, 1979), <https://perma.cc/R7JJ-MT2S>;
  - f. Letter from Jimmie J. Nelson, American Petroleum Institute, to AQ-9 Task Force, The CO2 Problem; Addressing Research Agenda Development, Climate Investigations Ctr. (Mar. 18, 1980), <https://perma.cc/TC6J-LN9Y>;
  - g. Report of Dr. J. A. Laurman, The CO2 Problem; Addressing Research Agenda Development, referenced in the Letter in part f;
  - h. Presentation of Dr. J. A. Laurman, The CO2 Problem; Addressing Research Agenda Development, referenced in the Letter in part f;

- i. National Petroleum Council, Environmental Conservation, The Oil and Gas Industries: An Overview (1981), <https://perma.cc/949X-KY3J>;
- j. American Petroleum Institute, Climate Models and CO2 Warming: A Selective Review and Summary (Columbia Univ., Mar. 1982), <https://perma.cc/7EWQ-AZLW>;
- k. Bruce, J. P. and A. T. Brough. Memorandum of Understanding Between the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) on the Intergovernmental Panel on Climate Change (IPCC) (1989), <https://perma.cc/TUE4-XF7P>;
- l. IPCC, Climate Change: The IPCC Scientific Assessment xi (1990), <https://perma.cc/AC6V-YTL3>;
- m. IPIECA, Briefing Documentation on Potential Enhanced Greenhouse Effect (Feb. 19, 1990), <https://perma.cc/MQZ2-MEF8>;
- n. Brian Flannery, Exxon Research and Engineering, Global Climate Change State of the Science, enclosed in the briefing referenced in part m;
- o. H.J. Kraaijveld, Shell Intl. Petroleum MIJ, The Impact of Energy Efficiency Developments on Oil Consumption and Its Significance with Respect To Mitigating the Greenhouse Effect, enclosed in the briefing referenced in part m;
- p. Duane G. Levine, Exxon Corporation, The Potential Enhanced Greenhouse Effect Status/Projections/Concerns and Needs for Constructive Approaches, enclosed in the briefing referenced in part m;
- q. The American Petroleum Institute (API) Position on Global Climate Change July 1989, enclosed in the briefing referenced in part m;
- r. GCC, Issues and Options: Potential Global Climate Change (1994), <https://perma.cc/H34Y-L8LW>;
- s. GCC, Climate Change: Your Passport to the Facts (1995), <https://perma.cc/BNW2-ENHJ>;
- t. Memorandum from Gregory J. Dana, Assoc. of Int'l Auto. Mfrs., to AIAM Technical Committee, Global Climate Coalition (GCC) - Primer on Climate Change Science - Final Draft (Jan. 18, 1996), <https://perma.cc/GD6W-UFZ3>;
- u. S. Fred Singer, Climate Change and Consensus, Science vol. 271, no. 5249 (Feb. 2, 1996);
- v. Frederick Seitz, A Major Deception on "Global Warming," Wall Street Journal (June 12, 1996), <https://perma.cc/2RC4-UFCT>;

- w. Global Climate Coalition, Global Climate Coalition: An Overview 2 (Nov. 1996), <https://perma.cc/9MZY-5FPW>;
- x. Sally Brain Gentile et al., Reinventing Energy: Making the Right Choices, American Petroleum Institute (1996), <https://perma.cc/79ES-6QWZ>;
- y. William O’Keefe, A Climate Policy, in The Washington Post (July 4, 1997), <https://perma.cc/AU8D-6VM5>;
- z. Email from Joe Walker to Global Climate Science Team, Draft Global Climate Science Communications Plan (Apr. 3, 1998), <https://perma.cc/3M7L-MLWS>;
- aa. Wendy E. Franz, Science, Skeptics and Non-State Actors in the Greenhouse (1998), <https://perma.cc/EZ4S-476G>;
- bb. Willie Soon & Sallie Baliunas, Proxy Climatic and Environmental Changes of the Past 1000 Years, Climate Research (Jan. 31, 2003), <https://perma.cc/TTV2-393B>;
- cc. O’Keefe, W., Global Warming An Uncertainty, in Seattle Post-Intelligencer, (Dec. 12, 2003), <https://perma.cc/JW8M-4NS6>;
- dd. Memorandum from J.F. Black, Exxon Research and Engineering Company, to F.G. Turpin, The Greenhouse Effect (June 6, 1978), <https://perma.cc/9KUU-XUPH>;
- ee. Letter from W.L. Ferrall, Exxon Research and Engineering Co., to Dr. R.L. Hirsch, Controlling Atmospheric CO<sub>2</sub>, Climate Investigations Ctr. (Oct. 16, 1979), <https://perma.cc/X79K-MCQE>;
- ff. Letter from G.H. Long, Exxon Research and Engineering Co., to P.J. Lucchesi et al., Atmospheric CO<sub>2</sub> Scoping Study, Climate Investigations Ctr. (Feb. 5, 1981), <https://perma.cc/H44X-HZ4F>;
- gg. Memorandum from Henry Shaw to Dr. E.E. David, CO<sub>2</sub> Position Statement, Inside Climate News (May 15, 1981), <https://perma.cc/4NDD-ZV5X>;
- hh. Memorandum from Roger W. Cohen to W. Glass, ClimateFiles (Aug. 18, 1981), <https://perma.cc/CHX6-P42L>;
- ii. Memorandum from M.B. Glaser, CO<sub>2</sub> “Greenhouse” Effect, Exxon Research and Engineering Company (Nov. 12, 1982), <https://perma.cc/SNU4-QE25>;
- jj. Memorandum from Joseph M. Carlson, The Greenhouse Effect (Aug. 3, 1988), <https://perma.cc/AWD6-USGV>;
- kk. Lee R. Raymond, Chairman and Chief Executive Officer, Exxon Corp., Address at the World Petroleum Congress (Oct. 13, 1997), <https://perma.cc/D9PY-KKN9>.

9. All Documents relating to the International Petroleum Industry Environmental Conservation Association (IPIECA) meeting held in Baltimore, Maryland in 1987.

10. All Documents concerning the IPIECA “Ad Hoc Group on the Greenhouse Effect” and “Working Group on Global Climate Change” formed in or around 1987.

11. Documents sufficient to identify any of Your divisions, chapters, programs, affiliates, or other names under which you operate(d) in Hawai‘i, and containing the business addresses and years in which such divisions, chapters, programs, affiliates, or other names under which you operate(d) in Hawai‘i. Documents sufficient to show membership on Your board of directors from 1950 to present, Including when an employee or representative of any Defendant served as a member of Your board of directors, as well as the name of such employee or representative and their title.

12. Documents sufficient to show all of Your members from 1950 to present, as well as all leadership roles in, or financial contributions to You.

13. Documents sufficient to show all financial or contractual relationship Concerning Public Climate Change Communications between any Defendant(s) and API, Including contracts, invoices, receipts for payment, scopes of work, descriptions of or requests for work or potential work, and any written or electronic communications relative to the items described in this request.

14. Exemplary Copies of all Public Climate Change Communications that You Circulated or made available to consumers or the public, Including through Print Media, Out-Of-Home Advertising, mail, email, radio, podcast, Programmatic Audio, television, Digital Advertisements or those circulated by other means.

15. Produce all drafts of Your Public Climate Change Communications.

16. Exemplary Copies of all Climate Change Research that You Circulated or made available to the public.

17. Produce all Documents and Communications Concerning Climate Change Topics that were Prepared by Agencies or Public Relations companies, Including any organizations, consultants, professionals, or other third parties involved in Your Public Climate Change Communications.

18. Produce all Documents and Communications Relating To Your Public Climate Change Communications, Including:

- a. Documents sufficient to identify all Persons who Prepared, approved, Circulated, issued, purchased advertising space for, or supervised Your Public Climate Change Communications. This request Includes Persons engaged in Media Planning or buying, as well as all Agencies, Public Relations companies, consultants, or other professionals who were involved in Your Public Climate Change Communications;
- b. Documents sufficient to identify the specific Media Vehicles where each of Your Public Climate Change Communications was printed, displayed, mailed, broadcast,

or Circulated (e.g., New York Times, CBS, Facebook, YouTube, Google); the number of times each was printed, displayed, mailed, broadcast, or Circulated; and the time period during which each was printed, displayed, mailed, broadcast, or Circulated;

- c. Documents sufficient to show Your spending on the Preparation and Circulation of Your Public Climate Change Communications by year, by Public Climate Change Communication, and by Persons involved in Preparing and Circulating the Communication;
- d. Documents and Communications Concerning the targeted, anticipated, or actual audience for Your Public Climate Change Communications, Including (where available) the actual or estimated size of that audience. This Includes Documents Concerning the reach of Advertisements; information or data Concerning engagement, readership, or Circulation; relevant data from dashboards, Programmatic Audio, and Programmatic Marketing; and Documents Concerning Audience Segmentation, Audience Identification, audience analysis, Intercept Interviews, In-Depth Interviews, or Audience/Advertising Testing;
- e. Documents and Communications Concerning any projects, campaigns, efforts, plans, strategies, objectives, or goals Concerning Your Public Climate Change Communications. This request Includes Client Briefs, Project Briefs, Creative Briefs, Documents Concerning Media Planning, Documents Concerning Media buying, Pitch Documents, Requests for Proposal, Documents responding to Requests for Proposals, proposed campaign concepts and strategies, key messaging and language strategies, Brand marketing Documents, Statements of Work, corporate reputation strategies, Media Relations strategies, Strategic Communications, and Strategic Messaging Documents;
- f. Documents and Communications Concerning the actual, planned, or potential effects on consumers or the public that Your Public Climate Change Communications could or did have. This request Includes Documents and Communications Concerning Key Performance Indicators, engagement, reach, Focus Groups, focus tests, market tests or surveys, public opinion tests, public opinion surveys, copy tests, A/B Testing, Marketing Research, Consumer Research, audience research, Audience/Advertising Testing, Audience Identification, audience profile, Choice Modeling, Brand marketing Documents, Brand reputation studies, studies of Consumers' Willingness to Pay, or other similar evaluations, estimates, or projections;

19. Documents and Communications Concerning the performance of Your Public Climate Change Communications on any Key Performance Indicators, Including engagement, Impressions, clicks, Click-Through Rate, conversions, revenue, reach, audience size, cost, cost per click, cost per Impression, open rate, creative, keywords, keyword match, search results, and data. For avoidance of doubt, this request Includes any advertising performance reports from Google Manager 360, Google Ads, Search Ads 360, Google Analytics, Google Search Console, Meta Ad Manager, Meta Ad Center, Meta Business Suite, X Ad Manager, X

Analytics, LinkedIn Campaign Manager, Spotify Ads Manager, AdRoll, Mailchimp, Marin Software, including those platforms as known by previous names, and any other advertising management platforms that You use. It also Includes advertising performance data from relevant dashboards. Produce all Documents and Communications Concerning:

- a. consumers' or the public's knowledge (or lack thereof) of Climate Change Topics, Including Focus Groups, Consumer and Marketing Research, public opinion surveys, and public opinion tests, as well as any Assessments of the public's understanding of Climate Change, the causes of Climate Change and Climate Impacts;
  - b. the actual or potential effects that consumers' or the public's knowledge of Climate Change Topics or Energy Efficiency has or could have on consumer behavior, Including any Assessments of whether and how a Person's knowledge about Climate Change, the causes of Climate Change and Climate Change Impacts influences or can influence a Person's decisions to purchase Fossil Fuel Products;
  - c. the actual or potential effects that consumers' or the public's understanding of Climate Change Topics or Energy Efficiency has or could have on the Clean Energy Transition;
  - d. the actual or potential effects that Public Climate Change Communications (from any source) have or could have on consumers' or the public's understanding of Climate Change Topics or Energy Efficiency, Including any actual or potential effects on consumers' or public's understanding of Climate Change, the causes of Climate Change and Climate Impacts;
  - e. the actual or potential effects that Public Climate Change Communications (from any source) have or could have on consumer behavior, Including actual or potential effects on consumers' decisions to purchase Fossil Fuel Products;
  - f. the actual or potential effects that Public Climate Change Communications (from any source) have or could have on the Clean Energy Transition.
20. Produce all Documents and Communications Concerning Energy System Models or Climate Models, Including the accuracy or reliability of those Models; the results or findings of those Models; Your Assessment of those Models; Your design or development of those Models; the use of those Models to simulate, predict, or project the Clean Energy Transition, Greenhouse Gas Emissions, Emission Pathways, Climate Change, Climate Change Impacts, or Climate Change Risks.
21. Produce all Documents and Communications Assessing the Clean Energy Transition, Including:
- a. the start, timing, speed, trajectory, cost, feasibility, or nature of the Clean Energy Transition;
  - b. the historical, current, or future factors that have influenced or could influence the

start, timing, speed, trajectory, cost, feasibility, or nature of the Clean Energy Transition, Including the cost, price, and technological innovation of Renewable Energy, nuclear energy, or Carbon Capture; consumer demand for Renewable Energy, nuclear energy, or Carbon Capture; private and government investments in the research and development of Renewable Energy, nuclear energy, or Carbon Capture; government regulations, policies, and subsidies for Fossil Fuel Products, Renewable Energy, nuclear energy, or Carbon Capture; government regulations or policies to limit or reduce Greenhouse Gas Emissions, Climate Change, Climate Change Impacts, or Climate Change Risks; and public or consumer understanding or knowledge of Climate Change Topics or Energy Efficiency;

- c. predictions, forecasts, or projections made at any point in time Concerning the Clean Energy Transition (e.g., a projection made in 1980 about the state of the Energy System in 2000, or a projection made today about the state of the Energy System in 2050), Including predictions, forecasts, or projections Concerning the growth or market penetration of Renewable Energy;
- d. the actual or potential effects of Public Climate Change Communications on the Clean Energy Transition; and
- e. the actual or potential effects of Lobbying, Public Relations, or Advertising on the Clean Energy Transition.

22. Produce all Documents and Communications Concerning global, regional, national, sector, industry, or company Emission Pathways, Including actual, potential, predicted, projected, forecasted, historical, current, or future trends in Greenhouse Gas Emissions or atmospheric concentrations of Greenhouse Gases. This Request Includes historical projections (e.g., forecasts made from a point in the past, such as a projection made in the year 1980 about Greenhouse Gas Emissions in the year 2000) and future projections (e.g., forecasts made in the present, such as a projection made today about Greenhouse Gas Emissions in the year 2050).

23. Produce Documents or Communications sufficient to identify all Persons involved in Your Climate Change Research, Including all Persons who Prepared Climate Change Research on Your behalf, at Your direction, under Your control, or with Your financial support or funding.

24. Produce Documents or Communications sufficient to identify Your spending on Climate Change Research by year and by Persons who conducted (or were engaged to conduct) that research. This Includes Documents or Communications sufficient to identify Your annual spending on internal Climate Change Research (e.g., research conducted by Your employees) and Your annual funding of external Climate Change Research (e.g., research conducted by third parties).

25. Produce all Documents and Communications Concerning Climate Change Research, Including any Climate Change Research conducted by Your employees and any Climate Change Research conducted by other Persons on Your behalf, at Your direction, under Your control, or with Your financial support or funding. This Request Includes all Documents and Communications Concerning Climate Change Research that were created by, communicated to,

exchanged with, or otherwise Relating to Your executive-level managers, Including Your chief executive officer, chief financial officer, chief operating officer, or any of Your Board members.

26. Produce all Documents and Communications Concerning actual or potential Climate Change, and Climate Impacts Including: any actual or potential Climate Impacts to Honolulu, O‘ahu, Hawai‘i, the islands of Polynesia, tropical islands in the Pacific Ocean, or coastal communities.

27. Produce all Documents and Communications Concerning the Intergovernmental Panel on Climate Change (IPCC), Including its research and publications.

28. Produce all Documents and Communications Concerning the United Nations Framework Convention on Climate Change (UNFCCC) and all related international Climate Change negotiations, Including the UNFCCC’s research and publications, the Conference of the Parties (COP), the Kyoto Protocol, and the Paris Agreement.

29. Produce all Communications with federal, state, or local governmental entities, officials, employees, or their representatives Concerning Climate Change Topics, Including Communications Concerning: (a) the BTU tax proposed by President Clinton;<sup>1</sup> (b) the U.S. National Climate Assessments produced by the U.S. Global Change Research Program; (c) the Bush Administration’s Climate Change Science Program (CCSP) and Climate Change Technology Program (CCTP); (d) the Climate Stewardship Act of 2003; (e) the American Clean Energy and Security Act of 2009 (aka, the Waxman-Markey bill); (f) the regulation of Greenhouse Gases under the federal Clean Air Act; and (g) renewable portfolio standard (RPS) policies at the State or federal level.

30. Produce all Documents and Communications Concerning the following reports or publications in the media:

- a. The Union of Concerned Scientists report, “Smoke, Mirrors & Hot Air: How ExxonMobil Uses Big Tobacco’s Tactics to Manufacture Uncertainty on Climate Science,” dated January 2007;
- b. Any or all articles in a series of articles about ExxonMobil in late 2015 in *Inside Climate News* or *The Los Angeles Times*;
- c. “#ExxonKnew” public advocacy efforts;
- d. The Greenpeace UK video released in June 2021 depicting statements of Keith McCoy;
- e. The Frontline/PBS documentary, “The Power of Big Oil,” aired in April and May 2022; and
- f. The Time/CBS documentary, “Black Gold,” released on Paramount+ in May 2022.

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<sup>1</sup> H.R. Rep. No. 103-111 (1993); *see also* Omnibus Budget Reconciliation Act of 1993, H.R. 2264, 103rd Cong.

31. All Documents and Communications You have produced, that were produced on Your behalf, that You made available for inspection, or that were made available for inspection on Your behalf, in any Climate Change litigation or investigations into Climate Change deception.

## Appendix A

1. 60/Sixty Plus Association
2. Accuracy in Academia
3. Accuracy in Media
4. Acton Institute
5. Advancement of Sound Science Center, Inc.
6. Advancement of Sound Science Coalition
7. Air Quality Standards Coalition
8. Alexis de Tocqueville Institution
9. Alliance for Climate Strategies
10. Alliance for Energy and Economic Growth
11. American Association for the Advancement of Science
12. American Chemistry Council, or its predecessor, Chemical Manufacturers Association
13. American Coal Foundation
14. American Council for Capital Formation, Including its Center for Policy Research
15. American Council on Science and Health
16. American Energy Alliance
17. American Enterprise Institute for Public Policy Research
18. American Enterprise Institute – Brookings Joint Center for Regulatory Studies
19. American Fuel & Petrochemicals Manufacturers, or its predecessors, the National Petroleum Refiners Association and the National Petrochemical & Refiners Association
20. American Legislative Exchange Council
21. American Meteorological Society
22. American Policy Center
23. American Recreation Coalition
24. Americans for Balanced Energy Choices
25. Americans for Prosperity
26. Americans for Tax Reform
27. Annapolis Center for Science-Based Public Policy, a/k/a the Annapolis Center
28. APCO Worldwide
29. Aspen Institute
30. Association of Concerned Taxpayers
31. Atlantic Legal Foundation
32. Atlas Economic Research Foundation
33. Beacon Hill Institute
34. Berman & Company
35. Blue Advertising, LLC
36. Blue Ribbon Coalition
37. Bluemarin
38. Brunswick Group LLC
39. Burson-Marsteller LLC, subsequently merged into BCW LLC
40. The Business Roundtable
41. Capital Legal Foundation
42. Capital Research Center, Including Green Watch
43. Cato Institute
44. Center for the New Europe – USA

45. Center for American and International Law
46. Center for Climate and Energy Solutions (C2ES), formerly the Pew Center on Global Climate Change
47. Center for Energy and Economic Development
48. Center for Environmental Education Research
49. Center for Industrial Progress, Inc.
50. Center for Security Policy
51. Center for Strategic and International Studies
52. Center for the Defense of Free Enterprise
53. Center for the New West
54. Center for the Study of Carbon Dioxide and Global Change
55. Cerrell
56. Charles River Associates
57. Chemical Education Foundation
58. Chime Communications Limited, Including its companies, Bell Pottinger, VCCP Ltd.
59. Citizens for a Sound Economy, and the CSE Educational Foundation
60. Citizens for the Environment, and the CFE Action Fund
61. Clean Water Industry Coalition
62. Climate Council
63. Climate Intelligence Foundation (CLINTEL)
64. Coalition for Affordable and Reliable Energy
65. Coalition for American Jobs
66. Coalition for Vehicle Choice
67. Committee for a Constructive Tomorrow (CFACT)
68. Competitive Enterprise Institute
69. Congress of Racial Equality
70. Consumer Alert
71. Converseon
72. Cooler Heads Coalition
73. Council for Solid Waste Solutions
74. CounterPoint Strategies Limited
75. DCI Group
76. Defenders of Property Rights
77. Dentsu Group
78. Designated Market Media LLC
79. Dezenhall Resources, Ltd., formerly Nichols-Dezenhall
80. Digitas
81. Dittus Communications Inc.
82. Donors Capital Fund
83. Donors Trust
84. DRI-McGraw Hill, a/k/a DRI, DRI/McGraw-Hill, Including Documents Relating To Data Resources, Inc.; Global Insight; IHS, Inc.; and the publisher known as McGraw-Hill, McGraw Hill, or McGraw Hill Education
85. E. Bruce Harrison Company, a/k/a E. Bruce Harrison & Co., E. Bruce Harrison or EBH
86. Earthwatch Institute
87. Environmental Conservation Organization (ECO)

88. Edelman Inc., as well as Daniel J. Edelman Holdings Inc. and its companies
89. Edison Electric Institute
90. Energy & Environment Legal Institute
91. The Federalist Society for Law and Public Policy
92. FleishmanHillard Inc., formerly Fleishman-Hillard International Communications
93. Foundation for Research on Economics and the Environment
94. The Fraser Institute
95. Free Enterprise Action Institute
96. FreedomWorks, formerly Citizens for a Sound Economy
97. Frontiers of Freedom
98. FTI Consulting
99. George C. Marshall Institute, and the subsequent CO<sub>2</sub> Coalition
100. Global Climate Coalition
101. Goddard Claussen Porter Novelli, previously Goddard Claussen
102. Golin/Harris International Inc.
103. Great Plains Legal Foundation
104. Greening Earth Society
105. GSD&M LLC
106. Hamilton Place Strategies
107. Harris Media LLC
108. Harvard Center for Risk Analysis
109. Harvard Smithsonian Center for Astrophysics, a/k/a Smithsonian Astrophysics Observatory
110. Havas
111. The Heartland Institute
112. The Heritage Foundation
113. Holt & Germann Public Affairs LLC
114. Hoover Institution on War, Revolution and Peace, Stanford University
115. Hudson Institute
116. Illinois Policy Institute
117. Independent Commission on Environmental Education
118. Independent Institute
119. Independent Petroleum Association of America
120. Independent Women's Forum
121. Information Council on/for the Environment
122. Institute for Biosphere Research
123. Institute for Energy Research
124. Institute for Regulatory Science
125. Institute for the Study of Earth and Man
126. Institute of Humane Studies, George Mason University
127. International Chamber of Commerce
128. International Council for Capital Formation
129. International Petroleum Industry Environmental Conservation Association
130. International Policy Network – North America
131. International Republican Institute

132. The Interpublic Group of Companies, Inc., a/k/a IPG, Including its companies, not limited to IPG DXTRA, Inc.
133. James Madison Institute
134. Jasculca Terman Strategic Communications
135. JunkScience.com
136. The Justice Foundation, formerly Texas Justice Foundation
137. Ketchum Inc.
138. Landmark Legal Foundation
139. Lexington Institute
140. The Locke Institute
141. Lopex Negrete
142. The Los Angeles Times
143. Louisiana Mid-Continent Oil & Gas Association (LMOGA)
144. Mackinac Center
145. Manhattan Institute
146. The Manufacturing Institute
147. McKinsey & Company
148. Media Institute
149. Media Research Center
150. MGA Communications, formerly MGA/Thompson
151. Mountain States Legal Foundation
152. National Association of Manufacturers, Including the Manufacturers Accountability Project
153. National Black Chamber of Commerce
154. National Center for Policy Analysis
155. National Center for Public Policy Research
156. National Council for Environmental Balance
157. National Environmental Development Association
158. National Environmental Policy Institute
159. National Legal Center for the Public Interest
160. National Mining Association
161. National Policy Forum
162. National Taxpayers Union Foundation
163. National Wetlands Coalition
164. National Wilderness Institute
165. NERA Economic Consulting, also known as National Economic Research Associates
166. New England Legal Foundation
167. New Hope Environmental Services, also known as New Hope Environmental Services, Inc.
168. The New York Times
169. Ogilvy
170. Omnicom Group, Including its companies, BBDO, DDB New York, RAPP Worldwide, DDC Advocacy LLC, Porter Novelli
171. Pacific Legal Foundation
172. Pacific Research Institute for Public Policy
173. Partnership for a Better Energy Future

174. Petroleum Marketers Association of America
175. Pierpont Communications
176. Property and Environmental Research Center, formerly Political Economy Research Center
177. Publicom
178. The Railroad Commission of Texas
179. Reason Foundation
180. Reason Public Policy Institute
181. Resources for the Future
182. Roman Peshoff Inc.
183. Ruder Finn Inc.
184. Science and Environmental Policy Project
185. Seniors Coalition
186. Sequel Studio
187. Small Business Survival Committee
188. Southeastern Legal Foundation
189. State Policy Network
190. Statistical Assessment Service (STATS)
191. Story Partners, LLC
192. Susan Davis International
193. T Brand Studio, a division of The New York Times Company
194. Tech Central Science Foundation
195. Texas Public Policy Foundation
196. Tri-State Generation and Transmission Association, also known as the Tri-State Generation and Transmission Association, Inc.
197. U.S. Chamber of Commerce, Including the U.S. Chamber Global Energy Institute
198. U.S. Oil & Gas Association
199. U.S. Russia Business Council
200. United for Jobs
201. Universal McCann Worldwide Inc., also known as UM
202. Virginia Institute for Public Policy
203. Washington Legal Foundation
204. The Washington Post
205. Weber Shandwick, incorporated as CMGRP, Inc.
206. Weidenbaum Center on the Economy, Government, and Public Policy
207. Western Fuels Association
208. Western States Petroleum Association
209. Wharton Econometric Forecasting Associates
210. World Environment Center
211. WP BrandStudio, a division of The Washington Post Company
212. WPP plc, Including its companies, MediaCom Worldwide, Geometry, and GCI Group, Hill & Knowlton, Group SJR, EssenceMediaCom

## **Appendix B**

- a. Arizona State University Office of Climatology
- b. Columbia University, Including its Center on Global Energy Policy
- c. George Mason University, Including the Mercatus Center, the Institute of Humane Studies, and the George Mason Law and Economics Center
- d. Georgia Tech, Including its Strategic Energy Institute
- e. Harvard University, Including the Belfer Center for Science and International Affairs; Harvard Project on Climate Agreements; Consortium for Energy Policy Research; Harvard Environmental Economics Program; and Department of Earth and Planetary Sciences
- f. Imperial College, London, Including its Sustainable Gas Institute
- g. Lamont-Doherty Laboratories at Columbia University
- h. Massachusetts Institute of Technology, Including the MIT Energy Initiative; Energy Policy Studies program; Earth Resources Laboratory; Center for Energy and Environmental Policy Research; and the Joint Program on the Science and Policy of Global Change
- i. Princeton University, Including its Carbon Mitigation Initiative; and Andlinger Center for Energy and the Environment
- j. Stanford University, Including its Program on Energy and Sustainable Development; Global Climate & Energy Project; Natural Gas Initiative; Precourt Institute for Energy Efficiency; Precourt Institute for Energy; Energy Modeling Forum; Woods Institute for the Environment; Strategic Energy Alliance; School of Earth Sciences; School of Earth, Energy, and Environmental Sciences; the Doerr School of Sustainability
- k. University of California, Berkeley, Including its Energy Biosciences Institute
- l. University of Texas, Austin, Including its Energy Institute
- m. US National Science Teachers Association

## Appendix C

The following terms are defined as follows for purposes of this discovery request:

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“A/B Testing”</b>                  | is randomly showing a respondent one version of a design or page — Version A or Version B — and tracking the changes in behavior based on which version the respondent saw. Version A is normally the existing design (“control”); and Version B is the “test,” with one copy or design element changed. A “50/50 A/B split test” means the random selection of which version of a design to show. A classic example would be comparing conversions resulting from serving either version (A) or (B), where the versions display different headlines. A/B tests as used herein also means copy testing (Including digital tests for clicked-on ad copy and landing page copy) to determine which version drives the more desired result.                            |
| <b>“Advertisement(s)”</b>             | are any announcement, persuasive message, or promotional material placed in the mass media in paid or donated time or space by businesses, firms, nonprofit organizations, government agencies, or individuals who seek to inform or persuade members of a particular target market or audience regarding their goods, services, organizations, or ideas. For avoidance of doubt, Advertisement also Includes advertorials opposite editorial (“op-ed”) pages, opinions pieces, Native Advertising, Digital Advertising, or other similar published statements or comments that promote the use of products.                                                                                                                                                        |
| <b>“Advertising”</b>                  | refers to the act of creating, disseminating, distributing, placing, purchasing, transmitting, and/or using an Advertisement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>“Agency”</b>                       | means any entity, firm, vendor, or other company that engages in the planning, development, support, or administration of marketing Communications, Including advertising campaigns, setting advertising objectives, developing Communications strategies, developing and producing messages, developing and executing media plans, and coordinating Related activities such as sales promotions, Public Relations, government relations, public affairs, Media Relations, media buying, media monitoring, reputation management, corporate Communications, brand communications, crisis communications, consumer and market research, third-party engagement, influencer marketing, digital, web, social media, television, radio, print, and content development. |
| <b>“Assessment(s)” or “Assessing”</b> | refers to the review, evaluation, consideration, analysis, research, or discussion of data, science, facts, or other information about a certain topic. When used with Documents, the term Includes Documents engaging in one of those processes or otherwise providing an                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

|                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                             | analysis, report, study, survey, summary, evaluation, model, estimate, or projection Concerning the topic.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Audience/Advertising Testing”</b>                       | is the process of putting different Advertisements in front of a sample target audience and asking for feedback on the Advertisements. This term Includes Advertisement tests run on an entire Advertisement or specific aspects of it; Includes the collection of or solicitation of feedback on any aspect, portion, or content of the Advertisement; and Includes any testing done by advertisers, Agencies, Energy Companies, or third parties.                                                                                                                                                                                                                |
| <b>“Audience Segmentation” or “Audience Identification”</b> | is a marketing strategy based on identifying subgroups within the target audience in order to deliver more tailored messaging and build stronger connections. The subgroups can be based on demographics such as geographic location, gender identity, age, ethnicity, income, or level of formal education. Subgroups can also be based on behavior, such as purchasing history. <sup>2</sup>                                                                                                                                                                                                                                                                     |
| <b>“Brand”</b>                                              | refers to a name, term, design, symbol, or any other feature that identifies one seller’s good or service as distinct from those of other sellers. <sup>3</sup> “Brand” also Includes an intangible asset that is intended to create distinctive images and associations in the minds of stakeholders, thereby generating economic benefit/value. <sup>4</sup>                                                                                                                                                                                                                                                                                                     |
| <b>“Carbon Capture”</b>                                     | means any effort, operation, process, or technology for capturing Carbon Dioxide, Including carbon capture utilization and storage (CCUS), carbon capture and sequestration/storage (CCS), and direct air capture (DAC). This Includes capturing Carbon Dioxide from process streams and/or from the ambient atmosphere, as well as compressing, transporting, storing, sequestering, or depositing such carbon dioxide in geologic reservoirs or in any other state to prevent its release into the atmosphere. This also Includes any effort, operation, process, or technology to capture carbon dioxide using plants, algae, bacteria, or other living things. |
| <b>“Choice Modeling”</b>                                    | is a form of market research referring to a family of multivariate statistical techniques that help identify optimal combinations of marketing variables. In Choice Modeling experiments, consumers are simply asked to make choices, given a set of concepts, Advertisements, package designs, or products on a shelf. Choice Modeling simulates the consumer’s natural buying-decision behavior. <sup>5</sup>                                                                                                                                                                                                                                                    |

<sup>2</sup> <https://mailchimp.com/marketing-glossary/audience-segmentation/>

<sup>3</sup> <https://marketing-dictionary.org/b/brand/>

<sup>4</sup> <https://www.iso.org/obp/ui/#iso:std:iso:20671:dis:ed-1:v1:en>

<sup>5</sup> <https://www.decisionanalyst.com/analytics/choicemodelingdesigns/>

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“Circulate” or “Circulation”</b> | refers to the physical or electronic dissemination, distribution, posting, Sending, shipment, or other transmission of a Document or Communication to customers or other Persons. It encompasses all methods by which Advertisements can be shown to the public. Where an Energy Company directs that Advertisements or other materials be transmitted in some way, they have Circulated them even if an Advertising, Media Vehicle, or other company is involved in the transmission (e.g. the Energy Company’s Advertising company directs Google to serve an advertisement on Google.com). |
| <b>“Clean Energy Transition”</b>    | refers to large-scale shifts away from Fossil Fuel-based energy sources and towards Renewable Energy, nuclear, and other energy sources that release little or no Greenhouse Gas Emissions. For avoidance of doubt, Documents Concerning the “Clean Energy Transition” also Include potential shifts of that nature, the timeframe for them, their technological and economic viability, their benefits and risks, and the technologies needed for such shifts.                                                                                                                               |
| <b>“Click-Through Rate (CTR)”</b>   | is a way of measuring the success of an online advertising or email campaign by the number of users that clicked on a specific link. CTR is the number of times a click is made on the Advertisement divided by the total Impressions (the times an Advertisement was served):<br>Click-Through Rate (%) = Click-throughs (#) / Impressions (#). <sup>6</sup>                                                                                                                                                                                                                                 |
| <b>“Client Brief”</b>               | refers to a Document or Communication that outlines the requirements and scope of a project or campaign as set forth by a client. It is often used in marketing as the basic construction of an advertising campaign. This short document can be written by the client themselves or as a collaboration between the client and the Agency they are hiring to complete their project. The hired Agency can use this document as instructions for the project. This ensures the project is completed correctly and in the manner the client wishes. <sup>7</sup>                                |
| <b>“Climate Adaptation”</b>         | refers to any action taken in response to actual or potential Climate Change, Climate Impacts, or climate risks, Including any action taken to moderate actual or potential harm and any action taken to benefit from or exploit opportunities associated with Climate Change.                                                                                                                                                                                                                                                                                                                |
| <b>“Climate Change”</b>             | means changes in the state of Earth’s climate that can be identified (e.g., by using statistical tests) by changes in the mean or the variability of its properties and that persists for an extended period, typically years or longer. Climate Change Includes global warming, the greenhouse effect, potential enhanced greenhouse (PEG), and enhanced greenhouse, which refer to the increase, observed or projected, in Earth’s global average surface temperature, as one of the consequences of changes in Radiative Forcing caused by human                                           |

<sup>6</sup> <https://marketing-dictionary.org>

<sup>7</sup> <https://www.indeed.com/career-advice/career-development/client-brief>

|                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                  | activities like Greenhouse Gas Emissions. References to Climate Change Include its speed, causes, positive feedbacks, negative feedbacks, solutions to it, and risks associated with it. As used herein, reference to Climate Change Includes Climate Adaptation, climate research, Climate Impacts, Climate Models, climate risks, Climate Science, and the Climate System.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>“Climate Change Research”</b> | means any research Concerning Climate Models, Energy System Models, the Clean Energy Transition, Carbon Capture, Renewable Energy, Climate Change, Climate Impacts, Climate Risk, or Climate Adaptation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>“Climate Change Topics”</b>   | means issues Concerning Climate Change, Climate Impacts, Climate Change Research, Greenhouse Gas Emissions, Green Marketing, Renewable Energy, Carbon Capture, Clean Energy Transition, and Climate Adaptation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Climate Impacts”</b>         | mean all of the actual and potential effects of Climate Change, Including warming of the atmosphere or oceans; rising sea levels; increasing acidification of the oceans; changed weather patterns (Including drought; extreme heat; extreme precipitation; increased storm frequency, severity and duration; acid rain; hurricanes; tidal waves); droughts; water salinization; temperature oscillations; loss of arable land; erosion; rising groundwater levels; vector-borne illnesses, Climate refugees, loss of tourism; Related health impacts on people; ecological impacts on plants, animals, microbiota, and other living things; impacts on agriculture, commercial or sport fishing, or other businesses; impacts on public property and private property; and foreseeable second and third-order effects. |
| <b>“Climate Model”</b>           | means any numerical representation of the Climate System based on the physical, chemical, and biological properties of its components, their interactions, and feedback processes, and that accounts for all or some of its known properties. Climate Models are applied as a research tool to study and simulate the Climate, and for operational purposes, Including monthly, seasonal, interannual, and longer-term Climate predictions.                                                                                                                                                                                                                                                                                                                                                                             |
| <b>“Climate System”</b>          | means the dynamics and interactions on Earth of the major features that influence the Climate, Including the atmosphere, hydrosphere, cryosphere, land surface, and biosphere.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>“Communication(s)”</b>        | means any act, action, oral speech, written correspondence, contact, expression of words, thoughts, ideas, transmission or exchange of data or other information to another Person, whether orally, Person-to-Person, in a group, by telephone, letter, Personal delivery, telex, email, facsimile, text message, instant message, recorded message, or any other process - electronic, computer, or otherwise. All such Communications in writing shall Include printed, typewritten,                                                                                                                                                                                                                                                                                                                                  |

|                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                             | handwritten, electronic, or other Document(s).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>“Concerning” or<br/>“Relating To”<br/>“Relate(d) To” or<br/>“Relate”</b> | Include within their meaning the following terms: containing, referencing, alluding to, responding to, commenting upon, discussing, explaining, mentioning, analyzing, constituting, memorializing, compromising, reporting, incorporating, confirming, listing, evidencing, setting forth, summarizing, or characterizing, either directly or indirectly, in whole or in part.                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>“Consumer or<br/>Marketing Research”</b>                                 | refers to Public Opinion Surveys, Focus Groups, or any other Assessment Relating To the impacts of Advertisements or Public Relations on consumer or market opinions or behavior, including Message Development, Message Testing, Audience Identification and Audience Testing, and advertising development and testing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>“Consumers’<br/>Willingness to Pay”</b>                                  | is a measure of how much value a consumer places on a product or service, typically quantified by the maximum price a customer is willing to pay for that product or service. <sup>8</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>“Creative Brief(s)”</b>                                                  | refers to a Document or Communication that summarizes the key information a writer, designer, videographer, or other creative professional or professional communicator needs to understand a project. Creative Brief Includes any background information, project goals, strategy, deadlines, and other salient details Related To the project. This term Includes internal or intra-company Documents and Creative Briefs intended for third parties or Agencies.                                                                                                                                                                                                                                                                                                                                                             |
| <b>“Defendant(s)”</b>                                                       | refers to Aloha Petroleum LLC, Aloha Petroleum, Ltd., BP America Inc., BP P.L.C., Chevron Corporation, Chevron U.S.A. Inc., ConocoPhillips, ConocoPhillips Company, Exxon Mobil Corporation, ExxonMobil Oil Corporation, Marathon Petroleum Corp., Phillips 66, Phillips 66 Company, Shell PLC (f/k/a/ Royal Dutch Shell PLC), Shell USA, Inc. (f/k/a/ Shell Oil Company), Shell Oil Products Company LLC, Sunoco LP, Woodside Energy Hawaii, Inc. (f/k/a BHP Hawaii Inc.). It also Includes the predecessors, successors, parents, subsidiaries, affiliates, related companies, and joint ventures, and all of its officers, directors, employees, agents, contractors, accountants, advisors, attorneys, trustees, representatives, successors or assigns, and all other Persons acting or purporting to act on their behalf. |
| <b>“Digital Advertising”<br/>or “Digital<br/>Advertisement”</b>             | is visually-based advertising or other marketing Communications placed on websites. It Includes a variety of different formats that contain text, images, movement, video, and audio. The main purpose of Digital Advertising is to deliver Brand messages to those who visit the website and, in the case of retail websites, influence the customer at the shopping stage.                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

<sup>8</sup> <https://online.hbs.edu/blog/post/willingness-to-pay>.

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| <p><b>“Document”</b></p> | <p>shall have the broadest meaning possible and means all Documents, electronically stored information (“ESI”), and tangible things discoverable under Rule 34 of the Hawai‘i Rules of Civil Procedure. It shall have the broadest meaning possible and shall Include the complete original (or complete copy where the original is unavailable) and each non-identical copy (where different from the original because of notes made on the copy or otherwise) of any and all documents (so defined), as well as any attachment thereto or enclosure therewith. “Document(s)” Includes all books, papers, electronically stored information, tangible things, writings, and all other means of recording information, whether written, transcribed, taped, filmed, microfilmed, or in any other way produced, reproduced, captured, or recorded, and including but not limited to originals (or identical duplicates when originals are not available), drafts, computer-stored and computer-retrievable information, copies and duplicates that are marked with any notation or annotation or otherwise differ in any way from the original, correspondence, memoranda, reports, notes, minutes, contracts, agreements, leases, subleases, lease assignments, amendments, books, records, checks, vouchers, permits, invoices, purchase orders, hazardous waste manifests, timesheets, bills of lading, receipts, ledgers, diaries, logs, calendars, computer printouts, computer disks, card files, lists of persons attending meetings or conferences, site plans, floor plans, blueprints, equipment lists, maps, diagrams, drawings, photographs, videographs, sketches, calculations, evaluations, analyses, directions, work papers, press clippings, sworn or unsworn statements, requisitions, manuals or guidelines, audit work papers, financial analyses, tables of organizations, charts, graphs, indices, advertisements and promotional materials, audited and unaudited financial statements, trade letters, trade publications, newspapers and newsletters, emails, electronic or mechanical records, facsimiles, telegrams and telecopiers, and audiotapes. Each draft, annotated, or otherwise non-identical copy is a separate document within the meaning of this term. “Document(s)” shall also Include any removable sticky notes, flags, or other attachments affixed to any of the foregoing, as well as the files, folder tabs, and labels appended to or containing any documents. “Document(s)” expressly Include all electronic records, which shall mean the original (or identical, forensically unchanged duplicate when the original is not available) and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, changes to metadata, or highlighting of any kind) of writings of every kind and description inscribed by mechanical, facsimile, electronic, magnetic, digital, or other means. Electronic records Include but are not limited to computer programs (whether private, commercial, or work-in-progress), programming</p> |
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|                                 | notes and instructions, code, activity listings of email transmittals and receipts, output resulting from the use of any software program (including word processing documents, spreadsheets, slide presentations, database files, charts, graphs, and outlines), electronic mail, file transfer applications and/or platforms, and any and all miscellaneous files and file fragments, regardless of the media on which they reside and regardless of whether said electronic records exist in an active file, deleted file, or file fragment. Electronic records Include without limitation any and all items stored on computer memories, hard disks, diskettes and cartridges, network drives, network memory storage, archived tapes and cartridges, backup tapes, floppy disks, CD-ROMs, removable media, magnetic tapes of all types, microfiche, and any other media used for electronic data storage or transmittal. Electronic records also Include the file, folder tabs, and containers and labels appended to or associated with each original and non-identical copy. Documents Includes Communications. |
| <b>“Energy Efficiency”</b>      | refers to actions, behavior, capital investments, conduct, conservation measures, infrastructure, designs, technologies, or other things that reduce the quantity of energy used by a Person, group of Persons, entity, or thing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>“Energy System”</b>          | refers to all components Related To the production, conversion, delivery, and use of energy for a given geography (e.g., global, national, regional), sector (e.g., electricity, transportation, industry), or economy. <sup>9</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>“Energy System Model(s)”</b> | means any numerical representation of an Energy System, Including integrated assessment models, scenario analysis, and models that simulate, optimize, or project the operation of any portion of the Energy System, Including the production, transformation, and consumption of energy products, as well as carriers to meet energy needs or demands in an economy or sector. This Includes the IPCC Integrated Models and scenarios, the Global Change Analysis Model (GCAM), the Regional Model of Investment and Development (REMIND), MESSAGE, the IMAGE Energy Regional model (aka, TIMER), the International Energy Agency’s World Energy Model (WEM), the Global Energy and Climate Model (GEC), Carroll L. Wilson’s World Coal Study (WOCOL), <sup>10</sup> the General Equilibrium Environmental model (GREEN), and the MIT Economic and Policy Projection Analysis (EPPA) models. <sup>11</sup>                                                                                                                                                                                                            |

<sup>9</sup> [https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc\\_wg3\\_ar5\\_annex-i.pdf](https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_annex-i.pdf)

<sup>10</sup> C.L. Wilson, Coal: bridge to the future, Report of the World Coal Study (WOCOL) (1980).

<sup>11</sup> Y.H. Henery Chen et al., The MIT EPPA7: A Multisectoral Dynamic Model for Energy, Economic, and Climate Scenario Analysis (June 2022) (discussing EPPA7, and the precursor model to EPPA, GREEN), [https://globalchange.mit.edu/sites/default/files/MITJPSPGC\\_Rpt360.pdf](https://globalchange.mit.edu/sites/default/files/MITJPSPGC_Rpt360.pdf).

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| <b>“Emissions Pathways”</b>                           | refer to a trajectory of Greenhouse Gas Emissions or atmospheric concentrations of Greenhouse Gases over time. <sup>12</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>“Exemplary Copy(ies)”</b>                          | refer to single copies of a Document or Communication that was replicated for multiple uses with no change to the contents of the Document or Communication. For example, a single Exemplary Copy could be provided for an Advertisement printed in the New York Times on multiple dates without any changes to the contents of the Advertisement. Exemplary Copies Include images, graphics, hashtags, etc. For non-written media (e.g., radio or television) where a native copy is not available, Exemplary Copies Include Documents in a different format which reflect all contents of that media (e.g., the transcript of a radio commercial, or the text, images, or descriptions of images for a television commercial).                                                                                                                                                                                                                                                                               |
| <b>“Focus Group(s)”</b>                               | refers to market research methods of gathering qualitative data or other information through group interaction. This term Includes any formation of a group of people and a moderator or facilitator to participate in a discussion. Focus Group Includes all points in the process, Including the selection of participants based on characteristics such as geographic location, age group, ethnicity, shopping behavior, shopping history, or other factors; the written or oral design, structure, prompts, etc., of the group; and the sharing of thoughts, feelings, beliefs, etc., on the particular subject. Focus Group also refers to all collection of data or Assessment for later use or decision making. This term Includes all purposes for conducting a Focus Group, Including to understand a topic, product, service, belief, perception, or anything in greater depth. It is used to identify people’s opinions, attitudes, and sentiments, as well as to explore the reasons behind these. |
| <b>“Fossil Fuels” and/or “Fossil Fuel Product(s)”</b> | means oil, crude oil, condensates, heavy oil, oil sands, natural gas, natural gas liquids, ethane, propane, butane, coal, or any products containing or derived from such materials, Including gasoline, distillate fuels such as diesel fuel, heating fuels, jet fuel, and similar fuels intended for combustion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>“Greenhouse Gas Emissions”</b>                     | means any discharge to the atmosphere of Greenhouse Gas from any source, Including stationary sources (e.g., refineries, factories, and power plants); mobile sources; built structures; land (e.g., deforestation, agriculture, permafrost, volcanoes); landfills; water bodies; plants; wildfire; or domesticated animals. Water vapor (H <sub>2</sub> O), Carbon Dioxide (CO <sub>2</sub> ), nitrous oxide (N <sub>2</sub> O), methane (CH <sub>4</sub> ), ozone (O <sub>3</sub> ), and fluorinated gases (Including chlorofluorocarbons (CFCs), hydrofluorocarbons (HFCs), hydrochlorofluorocarbons (HCFCs),                                                                                                                                                                                                                                                                                                                                                                                               |

<sup>12</sup> *Emission Trajectories in IPCC*, 2018: Annex I: Glossary, Global Warming of 1.5°C. at pp. 541–62 (V. Masson-Delmotte, et al. eds.), <https://www.ipcc.ch/sr15/chapter/glossary/>; [https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC\\_AR6\\_WGII\\_Annex-II.pdf](https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_Annex-II.pdf)

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|                                            | perfluorocarbons (PFCs), and sulfur hexafluoride (SF <sub>6</sub> )) are the primary greenhouse gases in the Earth's atmosphere.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>“Green Marketing”</b>                   | means promoting, Advertising, or communicating to consumers that Fossil Fuel Products are safe, clean, sustainable, or green; have low Greenhouse Gas Emissions; or are superior in these respects to some other form of energy (e.g. cleaner, cleaner-burning, greener, lower Greenhouse Gas Emissions, etc.). This term Includes Communications Concerning an energy company, its operations, its Brand, its research, or its investments that reduce Greenhouse Gas Emissions, have low or no Greenhouse Gas Emissions, or are depicted as green or, sustainable, valuing, or pursuing sustainability; environmentally friendly, clean, or cleaner burning. |
| <b>“Impression” or “View”</b>              | refers to a single display of online content to a user's web-enabled device. It is the number of times an Advertisement is displayed, whether it is clicked on or not. For purposes of this term, each display counts as a single Impression. <sup>13</sup>                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>“Include” or “Including”</b>            | is used as a term of example and expansion and means “includes/including but not limited to.”                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>“Influencer Marketing”</b>              | refers to the leveraging of individuals who have influence over potential buyers and orienting marketing activities around these individuals to drive a Brand message to the larger market. This term Includes a Brand or organization inspiring or compensating influencers (which can Include celebrities, content creators, customer advocates, and employees) to get the word out on their behalf, rather than marketing directly to a large group of consumers. <sup>14</sup>                                                                                                                                                                             |
| <b>“Intercept Interview(s)”</b>            | is a market research technique used to gather on-sight information from the consumer such as in shops and restaurants.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Key Performance Indicators (KPIs)”</b> | are the critical (key) quantifiable indicators of progress toward an intended result. This term Includes any focus for strategic and operational improvement and creation of an analytical basis for decision making and help focusing attention on what matters most for a project, business, Brand, or organization. This term also Includes setting targets (i.e., the desired level of performance) and tracking progress against those targets. <sup>15</sup>                                                                                                                                                                                             |
| <b>“Lobbying”</b>                          | refers to fostering and maintaining relations with a government or its officials for the primary purpose of influencing legislation or regulation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>“Mass Media”</b>                        | refers to any means of Communication that reach large numbers of people, such as Television, newspapers, magazines, radio, the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

<sup>13</sup> <https://marketing-dictionary.org>

<sup>14</sup> <https://marketing-dictionary.org>

<sup>15</sup> <https://www.kpi.org/kpi-basics/>

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|                              | internet, and social media.                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>“Media Planning”</b>      | refers to the determination of advertising objectives, advertising strategies and advertising tactics Relating To the Advertising media to be used. This term Includes any statement of objectives, target market definition, types of advertising media to be used, and the amount of resources to be allocated to each (i.e., the media mix), and a specific time schedule for the use of each Media Vehicle. <sup>16</sup>                                                                   |
| <b>“Media Relations”</b>     | refers to mutually beneficial associations between publicists or Public Relations professionals and journalists with the aim or effect of reaching audiences with messages of news or features of interest (i.e., publicity). Media Relations Includes seeking publicity for an organization, responding to queries from journalists about the organization, maintaining lists of media contacts, or obtaining knowledge of media audience interests.                                           |
| <b>“Media Vehicle”</b>       | refers to a specific service, site, or method that delivers or Circulates Advertisements, Communications, and other media content to an audience, Including newspapers, magazines, Television, radio, social media, and Websites. <sup>17</sup>                                                                                                                                                                                                                                                 |
| <b>“Message Development”</b> | refers to the process of creating targeted content that communicates a Brand or organization’s value proposition with the aim or effect of resonating with an intended audience. This term Includes the identification and crafting of key messages and selling points, with the intent or effect of engaging potential customers or driving desired outcomes, such as Brand awareness, lead generation, or conversions.                                                                        |
| <b>“Message Testing”</b>     | is a type of market research aimed at evaluating how a company’s marketing language around a specific product, solution, or Brand resonates with an audience. More broadly, market research, whether conducted through qualitative or quantitative methods, may help an advertiser discover a new market or audience segment. Message Testing specifically will help an advertiser understand how to tailor a message to its target audience for maximum impact. <sup>18</sup>                  |
| <b>“Native Advertising”</b>  | is paid advertising that matches the look, feel, and function of the media it appears on. Examples of Native Advertising Include “sponsored” posts that seamlessly integrate into the environment of online news sites, or even ads on social media that mimic organic posts. Additionally, Native Advertising leverages the efforts of a publisher to attract a larger audience, but to reach and engage the publisher’s audience, native ads must fit within the site’s own content universe. |

<sup>16</sup> <https://marketing-dictionary.org>

<sup>17</sup> <https://marketing-dictionary.org>

<sup>18</sup> <https://glginsights.com/articles/what-is-message-testing-and-why-does-it-matter/>

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| <b>“Out-Of-Home (OOH) Advertising”</b> | refers to any Advertising media found outside of the home. This term Includes Advertising in high traffic areas such as highways, busy streets, airports, train stations, subway systems, stadiums, gas stations, and cinemas, and it Includes visual static signage such as posters, billboards, sky banners, Advertisements on street furniture or structures (e.g., benches and bus stop shelters), and dynamic signage—such as movement and customized content shown based on environmental factors and viewer interaction. For avoidance of doubt, Out-Of-Home Advertising Includes gas station Advertising, in-store advertising, and event marketing. <sup>19</sup>                                                                                                                                                                                                                      |
| <b>“Over-the-Top (OTT) Media”</b>      | refers to streaming services offered directly to viewers over the Internet. This term Includes the bypass of cable, broadcast, and satellite Television platforms that traditionally act as a controller or distributor of such content and is synonymous with subscription-based video on demand services that offer access to film and Television content, whether accessed by any variety of devices Including personal computers, mobile devices (Including smartphones and tablets), digital media players (Including video game consoles), and Televisions with integrated smart TV capabilities or set-top boxes/dongles. OTT Includes linear Television streams, time-shifted programs, and made-for-stream content. OTT also Includes content streamed over the public internet, rather than a closed, private network with proprietary equipment such as set-top boxes. <sup>20</sup> |
| <b>“Person” or “Persons”</b>           | means any natural Person, partnership, joint venture, corporation, association, firm, trust, or any other kind of organization or entity.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>“Personnel”</b>                     | means people employed by You, whether as employees, contractors, consultants, or agents.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>“Pitch Documents”</b>               | refer to presentations, proposals, and other correspondence Relating To how an Agency proposes marketing ideas for a Brand, product, or service to a prospective client. Pitch Documents Include Documents that express how the Agency’s marketing efforts will accomplish the client’s goals and deliver the Brand’s message.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>“Prepared”</b>                      | shall Include within its meaning “designed,” “created,” “written,” “drafted,” “revised,” “reviewed,” “edited,” or “produced,” whether through electronic media or any other means, either directly or indirectly, in whole or in part.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>“Press Releases”</b>                | are statement[s] that provide information about a significant event to members of the news media. Also called PR releases or news releases, they’re typically written by an organization’s PR or corporate Communications team, or by a PR Agency representing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

<sup>19</sup> <https://marketing-dictionary.org>

<sup>20</sup> <https://marketing-dictionary.org>

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|                                               | them.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>“Print Media”</b>                          | refers to all forms of physical, printed paper publications such as newspapers, magazines, books, and journals. Advertising in this medium can either appear directly on a page of the publication or take the form of insertions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>“Programmatic Audio”</b>                   | is the use of technology to automate the selling and insertion of Advertisements in audio content like podcasts, digital radio, and music-streaming services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>“Programmatic Marketing”</b>               | refers to the wide range of technologies that automatically trigger the buying, placement, and optimization of marketing Communications through machines, replacing traditional human-controlled methods (although human skills are used in “programming” the rules that trigger the automatic transactions). <sup>21</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>“Project Brief(s)”</b>                     | refers to a straightforward summary (often written by the project manager of a third party or Agency) of a project plan, Including the basic elements of a project, and is intended for clients and stakeholders. A Project Brief allows teams to share project goals, strategies, and timelines with stakeholders.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Promotional Material(s)”</b>              | means Communications to customers, potential customers, Persons who may influence potential customers, or the public seeking to draw notice or attention to, market, highlight the benefits or positive features of, or instill positive opinions of a company, its Brand, and any of its products.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Public Climate Change Communications”</b> | means any Advertisements Influencer Marketing, Public Relations, or Mass Media Communications Concerning Climate Change Topics, Including those that were Prepared but were not published, run, or otherwise made available to consumers or the public.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>“Public Relations”</b>                     | refers to a form of Communication management that seeks to make use of publicity and other nonpaid forms of promotion and information to influence the feelings, opinions, or beliefs about a company, its products or services, or about the value of the product or service or the activities of the organization to buyers, prospects, or other stakeholders. It similarly refers to the management of Communication between a client or entity and audiences consisting of large groups of Persons outside the company, often via Mass Media. Public Relations Includes performing strategic planning Relating To a client or entity’s Communications; issue management on behalf of clients or entities; identifying the Communications environment; performing Communication duties for organizations; managing Communication programs, Including (i) developing third-party Communication organizations such as industry coalitions, |

<sup>21</sup> <https://marketing-dictionary.org>

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|                               | business-industry-NGO coalitions, grassroots coalitions, grassroots coalitions, or experts, (ii) devising measurement and reporting standards, (iii) creating certifications and recognitions (e.g., awards); writing, editing, and designing promotional Communications and publications, Including Press Releases; conducting research to facilitate Communications; providing Media training for clients, entities, and representatives; preparing clients or entities for government testimony; offering legislative representation; and counseling managers, individuals, groups of individuals, and other organizations Relating To any of the above.                                                                                                                                                                                                                   |
| <b>“Renewable Energy”</b>     | means any form of energy from solar, geophysical, or biological sources that is replenished by natural processes at a rate that equals or exceeds its rate of use. It Includes bioenergy, photovoltaic solar, concentrated solar, geothermal energy, hydropower, ocean energy, and wind energy. For avoidance of doubt, Renewable Energy also Includes enabling technologies such as battery storage, development of electric vehicles, and other technologies or methods that have the potential to reduce use of Fossil Fuels For avoidance of doubt, Documents or Communications Concerning whether Renewable Energy is safe, effective, stable, sufficiently available, capable of providing sufficient energy, cost effective, or otherwise able to substitute in any way (or not) for Fossil Fuel Products are Documents or Communications Concerning Renewable Energy. |
| <b>“Request For Proposal”</b> | is a procurement Document that announces and describes a project or purchase request. A Request For Proposal solicits an opportunity for vendors to help resolve a specific need for a company. A Request For Proposal Includes the scope of a project or information about what needs to be purchased. Requests For Proposal can be open to any qualified company or sent by invitation only to a select set of firms. <sup>22</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>“Search Engine(s)”</b>     | is a database that indexes web pages, then displays a listing of those that are relevant when a user performs a keyword search. <sup>23</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>“Sent” or “Received”</b>   | mean, in addition to their usual meanings, the transmittal or reception of a Document or Communication by physical, electronic, or other delivery, whether by direct or indirect means, in whole or in part.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>“Social Networks”</b>      | refers to online site[s] or communit[ies] that ha[ve] user-centric content and interactive features (such as personal blogs, discussion boards, and chat rooms) and that gives users a chance to connect with one or more groups of friends, colleagues, etc., facilitating sharing of content, news, and information among them. Example communities are Meta (Instagram, Facebook, Threads, WhatsApp), X/Twitter,                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

<sup>22</sup> [https://www.adobe.com/acrobat/business/resources/rfp-meaning.html#:~:text=A%20request%20for%20proposal%20\(RFP,specific%20need%20for%20your%20organization.](https://www.adobe.com/acrobat/business/resources/rfp-meaning.html#:~:text=A%20request%20for%20proposal%20(RFP,specific%20need%20for%20your%20organization.)

<sup>23</sup> <https://marketing-dictionary.org>

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|                                                   | LinkedIn, Facebook, Snapchat, TikTok, and YouTube. <sup>24</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>“Statement of Work”</b>                        | is a legally binding business agreement between two parties that outlines a project’s scope, timeline, cost, and KPIs – as well as other aspects such as resource access and team alignment. It often represents a key part of a Request for Proposal, usually between customers and suppliers (or third parties). <sup>25</sup>                                                                                                                                                                                                                                                                                                            |
| <b>“Strategic Communications”</b><br>(StratComms) | refers to the act of planning, implementing, coordinating, and evaluating Public Relations activities on behalf of clients or entities to achieve identified objectives. This Includes creating, identifying, discovering, collating, framing, targeting, delivering, or disseminating mutually reinforcing information and campaigns for audiences across Communication channels.                                                                                                                                                                                                                                                          |
| <b>“Strategic Messaging”</b>                      | refers to messaging designed to build trust and rapport with an audience to change their behavior or take a specific action or guide the audience toward a desired outcome. The effectiveness of Strategic Messaging is measured through traditional metrics such as Click-Through Rate, Impressions, and engagement_levels. <sup>26</sup>                                                                                                                                                                                                                                                                                                  |
| <b>“Think Tank(s)”</b>                            | refers to an institute, corporation, or group organized to study a particular subject (such as a policy issue or a scientific problem) and provide information, ideas, or advice.                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>“Trade Association(s)”</b>                     | refers to a direct or indirect association of tradesmen, businessmen, businesses, or manufacturers that is established for the protection and advancement of their common interests. For example, this term Includes the American Petroleum Institute, the National Association of Manufacturers, the Chamber of Commerce, the Business Roundtable, the International Chamber of Commerce, and the World Business Council for Sustainable Development.                                                                                                                                                                                      |
| <b>“You” or “Your” or “API”</b>                   | shall be defined as American Petroleum Institute, with a principal place of business at 200 Massachusetts Avenue, NW, Washington, D.C. 20001, and also operating out of satellite offices, as well as any entity, firm and/or vendor under the direct or indirect control of Edelman by means of membership, ownership, voting, or appointment rights or otherwise and any of Edelman’s predecessors in interest, successors in interest, parent corporations, holding companies, subdivisions, subsidiaries, affiliated entities, officers, directors, trustees, partners, agents, servants, employees, consultants, and contract workers. |

<sup>24</sup> <https://marketing-dictionary.org>

<sup>25</sup> <https://www.sap.com/products/spend-management/services-procurement/what-is-statement-of-work-sow.html#:~:text=SOW%20is%20a%20legally%20binding,usually%20between%20customers%20and%20suppliers>

<sup>26</sup> <https://clearpointsmessaging.com/strategic-messaging/>

# APPENDIX D

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**Electronically Filed**

**FIRST CIRCUIT**

**1CCV-20-0000380**

**23-MAY-2023**

**08:24 AM**

**Dkt. 924 STIP**

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU,  
AND HONOLULU BOARD OF WATER  
SUPPLY,

Plaintiffs,

vs.

SUNOCO LP; ALOHA PETROLEUM,  
LTD.; ALOHA PETROLEUM LLC;  
EXXON MOBIL CORP.; EXXONMOBIL  
OIL CORPORATION; ROYAL DUTCH  
SHELL PLC; SHELL OIL COMPANY;  
SHELL OIL PRODUCTS COMPANY LLC;  
CHEVRON CORP; CHEVRON USA INC.;  
BHP GROUP LIMITED; BHP GROUP PLC;  
BHP HAWAII INC.; BP PLC; BP  
AMERICA INC.; MARATHON  
PETROLEUM CORP.; CONOCOPHILLIPS;  
CONOCOPHILLIPS COMPANY; PHILLIPS  
66; PHILLIPS 66 COMPANY; AND DOES  
1 through 100, inclusive,

Defendants.

CIVIL NO. 1CCV-20-0000380 (LWC)  
(Other Non-Vehicle Tort)

**STIPULATED ORDER REGARDING  
DISCOVERY OF ELECTRONICALLY  
STORED INFORMATION (“ESI  
PROTOCOL”); APPENDIX 1**

Trial Date: None  
Judge: Lisa W. Cataldo

**STIPULATED ORDER REGARDING DISCOVERY  
OF ELECTRONICALLY STORED INFORMATION (“ESI PROTOCOL”)**

**1. PURPOSE**

Absent special circumstances and as a supplement to any applicable rules and orders, the specifications set forth below (“ESI Protocol”) shall govern the production of all electronically stored information (ESI), and any documents, transcripts of prior testimony, exhibits, and other materials and information (including, to avoid any ambiguity, any copies, summaries, or

derivations thereof) produced by the Parties in the first instance<sup>1</sup> during discovery in the above-captioned action.

## **2. COOPERATION**

The Parties are aware of the importance the Court places on cooperation and commit to cooperate in good faith throughout the matter. The Parties agree that discovery will be proportional to the needs of the case and as such requests for production of ESI and related responses will be reasonably targeted, clear, and as specific as possible. The agreements set forth herein do not constitute a waiver of any kind, by any party, of any valid objection to the production of particular ESI. Where it may not be reasonable or technically possible to comply with any provisions articulated below, the Parties will confer in good faith to try to reach agreement on a reasonable form of ESI production or alternatives.

## **3. E-DISCOVERY LIAISON**

Each of the Parties have identified or will identify at least one liaison to each other who are responsible for discussing their respective ESI. Each e-discovery liaison will be, or will have access to those who are, knowledgeable about the technical aspects of e-discovery, including the location, nature, accessibility, format, collection, search methodologies, and production of ESI in this matter. The Parties will rely on the liaisons, as needed, to confer about ESI and to help resolve disputes without court intervention, consistent with the applicable Protective Order to be entered in this action.

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<sup>1</sup> Documents which are not produced in the first instance in this litigation, i.e., documents that were previously produced in other matters, shall be produced pursuant to the ESI protocols governing the format of document productions in those other matters, provided that those reproductions are in a reasonably usable format and provided that the Producing Party informs all other Parties in writing, prior to or at the time of production, that the production will be in a nonconforming format. The Parties reserve the right to object to a non-conforming format or request production in a conforming format.

#### **4. DEFINITIONS**

The Parties agree that the term “document(s)” shall include, but is not limited to, hard copy and ESI versions of word and .pdf documents, spreadsheets, emails and attachments, presentations, text files, and databases.

#### **5. SEARCH**

The Parties shall meet and confer in good faith and with the goal of achieving a just, speedy, and cost-efficient methodology or workflow for identifying responsive documents to be produced. E.g., the Parties may choose, but are not required, to proceed by proposing search terms, custodians, or date ranges that are narrowly tailored to particular issues in the matter combined with or by employing other methods to cull data and identify potentially responsive documents for review and production, including the use of technological solutions such as predictive coding/technology assisted review. In general, simply because a document hits upon a search term or is otherwise identified by technological tools as potentially responsive does not, on its own, mean that the document is in fact responsive to a Party’s request, and the Parties may conduct further review and/or analysis to determine responsiveness and privilege. The Parties may meet and confer to discuss the burden, accessibility and discoverability of potentially responsive data from non-traditional data sources (e.g., audio and video files, etc.). To the extent that any data from non-traditional data sources will be produced, it will be done so in a reasonably usable form to the extent possible. If necessary, the Parties may meet and confer to finalize production specifications from non-traditional data sources.

#### **6. PRODUCTION FORMATS**

- a) *General Format Information.* Except as to the formatting requirements agreed to herein, all documents shall be produced as kept by the Producing Party in the

ordinary course of business. The Parties agree to produce documents<sup>2</sup> in single-page, Group IV TIFF image file format (using a minimum resolution of 300 dpi) with industry standard-compatible image and data load files (i.e., .OPT and .DAT files) using industry standard delimiters. To the extent technically feasible without undue burden, when converting ESI from its native format into TIFF image format, hidden content (including hidden slides, columns and rows), tracked changes, edits, comments (including author comments), notes (including speakers notes) shall also be imaged so that such content is viewable on the image file. If particular documents warrant a different format, the Parties will cooperate to arrange for the mutually acceptable production of such documents. The Parties agree to take reasonable measures in processing documents for production so as to not materially affect the searchability of documents. Productions will be delivered via secure electronic file transfer system or shipped on encrypted physical media, such as CDs, DVDs or hard drives. To maximize the security of information in transit, any media on which documents being produced are transmitted may be encrypted by the Producing Party using commercially reasonable encryption technology.

- b) *Metadata.* The metadata fields set out in Appendix 1 will be produced in the .DAT data load file to the extent already in existence and reasonably accessible and/or available. To the extent that metadata does not exist, is not reasonably accessible or available, or would be unduly burdensome to collect, nothing in this

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<sup>2</sup> With the exception of hard copy documents which at the discretion of the Producing Party will either be made available for inspection as kept in the ordinary course or will be produced in electronic format as image files with, to the extent practicable, OCR text.

Protocol shall require any party to extract, capture, collect, or produce such data.

The Parties are not under any obligation to create or manually code metadata fields that are not otherwise automatically generated or that do not exist in the original metadata, with the exception of the following fields: (1) BegBates, (2) EndBates, (3) BegAttach, (4) EndAttach, (5) Confid Designation, (6) Text Path, and (7) All Custodian, all of which shall be populated by the Producing Party or its vendor. The first line in each industry standard compatible .DAT file shall be the header containing the agreed-upon metadata field names, and each subsequent line shall contain the fielded data for each document. .OPT and .DAT files shall be provided in a folder on the production deliverable named "Data."

c) *Production Specifics.*

- (i) Each image should be named with its corresponding Bates number. TIFF files must be produced in Group IV format with minimum resolution of 300 dpi. Original document orientation shall be maintained (i.e., portrait to portrait and landscape to landscape), but the Parties may, but are not required to, customize formatting to allow for optimal legibility (for example, by imaging all e-mail files in portrait mode to minimize text truncation issues). Bates numbers, confidentiality designations, and redactions shall be burned into the TIFF image files. TIFF image files shall be provided in a folder on the production deliverable named "Images."
- (ii) Image and document break information in .OPT image load files must correspond to the beginning Bates number in the .DAT metadata load file.

Each TIFF file produced must be referenced in the production's corresponding .OPT image load file.

- (iii) Any document being produced in color shall be produced as color 300 dpi single-page JPEG files. No party is required to produce documents in color in the first instance. If the Receiving Party has good cause to make reasonable requests for production of certain documents in color, the Receiving Party may do so by providing: (1) a list of the Bates numbers of documents it requests to be produced in color format; and (2) an explanation of the need for production in color format. The Producing Party shall not unreasonably deny such requests, but need not make such production until the Parties reach agreement regarding the production of documents in color. The Producing Party, at its sole discretion, may opt to produce native copies of the requested documents in lieu of providing color JPEG files.
- (iv) Excel files, .CSV files and other similar spreadsheets shall be produced in native format ("Native Files"). Native Files shall be provided in a folder on the production deliverable named "Natives." Each Native File shall be produced with a corresponding slip-sheet TIFF placeholder image file, which will contain burned in Bates numbers, confidentiality designations and language indicating that the document is being produced as a Native File. Native Files shall be named with the beginning Bates number that is assigned to that specific record in the production. A "NativeLink" entry for each spreadsheet shall be included in the .DAT load file indicating the

relative file path to each Native File in the production volume. Native Files shall be produced with extracted text and applicable metadata fields as set forth in Appendix 1. For Native Files that contain redactions, the Producing Party may either apply the redactions directly on the Native File itself or, for spreadsheets that render to less than 100 pages, the Producing Party may produce TIFF image files with burned-in redactions in lieu of a Native File and TIFF placeholder image. Each Producing Party will make reasonable efforts to ensure that it or its discovery vendor, prior to conversion to TIFF, reveals hidden data from redacted Native Files that are produced as TIFF image files and will be formatted so as to be readable (for example, column widths should be formatted so that numbers do not appear as “#####”). Under these circumstances, all single-page TIFF images shall include row and column headings. If the Receiving Party has good cause to make reasonable requests for production of certain documents in native format, the Receiving Party may do so by providing: (1) a list of the Bates numbers of documents it requests to be produced in native format; and (2) an explanation of the need for production in native format. A Producing Party shall not unreasonably deny such requests, but need not make such production until the Parties reach agreement regarding the production of documents in native format.

- (v) Other than as specifically set forth in the paragraph above, and other than as further agreed upon for any file types that are not susceptible to imaging, a Producing Party need not produce documents in native format.
- (vi) For each produced document, an extracted text file shall be provided along with its corresponding TIFF image file(s) and metadata. Each extracted text file shall be named according to the beginning Bates number that is assigned to that specific record in the production, followed by .txt. File names shall not contain any special characters or embedded spaces. The text of Native Files shall be extracted directly from the Native File. However, if a document has been redacted, Optical Character Recognition (“OCR”) of the redacted document will suffice in lieu of extracted text. Also, if extracted text is not available in the Native File or documents contain redactions, the documents shall be processed by an OCR tool prior to production to extract available text so that the record is searchable. If a party, however, chooses not to OCR sets of documents that have been originally maintained in an image format or hard copy format because the utility of the OCR is outweighed by the expense, it need not provide OCR for such documents that do not have available extracted text.
- (vii) Bates numbering must maintain consistent padding (e.g., with a consistent number of leading zeros) across the entire production and be sequential within a given document. The numbering convention shall be consistent throughout rolling productions. There shall be no spaces between the prefix and numeric value. No special characters shall be used other than

underscores and dashes. If suffixes are used, they shall be in dot notation (e.g., BATES000000001.001), unless the Parties otherwise agree. Bates numbers shall be branded in the lower right-hand corner of all TIFF images and shall not obscure any part of the underlying image to the extent possible.

- (viii) Parent-child relationships (the association between e-mails and attachments) will be preserved. Document families must be produced consecutively with the family relationship noted in the appropriate metadata field(s). For example, if a party produces an e-mail with its attachments, such attachments shall be produced behind the e-mail in the order in which they were attached.
- (ix) Confidentiality designations should be stamped onto images. Confidentiality designations and related issues will be handled as set forth in any Protective Order agreed upon by the Parties.
- (x) Each party shall normalize all ESI produced in this case to a single time zone (e.g., GMT, UTC, EST, etc.) and disclose which time zone was utilized during processing in advance of or contemporaneously with making its first production.
- (xi) A Producing Party may globally deduplicate (i.e., deduplicate across custodians) by exact duplicate families using MD5 or SHA-1 cryptographic hash values. Deduplicated documents shall not be produced if already produced in a prior production. The identity of the primary custodian and other processed and agreed-upon custodians that possessed

all de-duplicated items at the time of production shall be provided in the “All Custodian” field of the copy of the single record that is produced. Multiple custodians in the “All Custodian” field shall be separated by a semicolon. However, a Producing Party is not obligated to provide custodian information for custodians for whom it has not agreed to produce except to the extent necessary to reflect all recipients who received an email. Hard-copy documents shall not be eliminated as duplicates of responsive ESI. The Parties shall use commercially acceptable e-Discovery software that utilizes either MD5 or SHA-1 cryptographic hash values to de-duplicate ESI (at the document [i.e., parent] level). A Producing Party may also de-duplicate emails in such a way as to eliminate earlier or incomplete chains of emails, and produce only the most complete iteration of an email chain while also producing any lesser inclusive emails in a chain that contain different attachments (“email thread suppression”). If a Producing Party elects to utilize such email thread suppression for its productions, it shall use commercially acceptable e-Discovery software to do so (e.g., Relativity Analytics, Brainspace, Nuix, etc.), shall inform the Receiving Party of such use, and to the extent that email thread suppression results in any email recipient not being disclosed on the face of any email in the thread, the Producing Party shall identify such recipients in the metadata to the extent the information is available or the Producing Party may search for any emails where email thread suppression results in any email recipient not being

disclosed on the face of any email in the thread and include any such emails in its review population. If the Receiving Party has concerns that the approach being taken is resulting in a less than complete production, it may raise its concerns and, if no agreement is reached, seek relief. Any party opting to deduplicate in a different manner from the foregoing procedure shall disclose its deduplication methodology to the Receiving Party prior to deduplication. If the Receiving Party objects to the methodology, it shall timely raise those concerns with the Producing Party.

- (xii) The Parties shall make reasonable efforts to remove passwords or other security protection from individual potentially responsive ESI documents.
- (xiii) Common system and program files as defined by the NIST library (which is commonly used by discovery vendors to exclude system and program files from document review and production) need not be processed, reviewed or produced.
- (xiv) To the extent responding to a discovery request requires production of ESI contained in a database, the Producing Party may comply with the discovery request by querying the database and generating a report (“Structured Data Report”) in a reasonably usable and exportable electronic format (for example, in Excel or .CSV format). To the extent available and reasonably accessible, the first line in the Structured Data Report will show the column headers for each field of data included in the Structured Data Report. Unless otherwise agreed, the Parties have no

obligation to provide a supplemental report for records and information post-dating the extraction of the Structured Data Report.

- (xv) All productions are subject to any Protective Order entered by the Court in this case. Pursuant to the applicable rules and any Protective Order, the production of privileged or work-product protected ESI, documents, information or materials, whether inadvertent or otherwise, is not a waiver of the privilege or protection in the pending case or in any other federal or state proceeding.
- (xvi) Nothing in this ESI Protocol shall affect, in any way, a Producing Party's right to seek reimbursement for costs associated with collection, review, and/or production of documents.
- (xvii) Nothing in this ESI Protocol shall be interpreted to require disclosure of irrelevant information or relevant information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or immunity. The Parties do not waive any objections as to the production, discoverability, admissibility, or confidentiality of any information or documents. All productions are subject to any Protective Order entered by the Court in this action.

## **7. ROLLING PRODUCTION**

Regardless of any agreed-upon phasing of discovery, the Parties agree that reasonably paced rolling productions are acceptable, unless otherwise ordered by the Court.

## **8. DOCUMENTS PROTECTED FROM DISCOVERY**

Should any documents be withheld by any Party on the basis of attorney/client communication privilege, attorney work-product privilege, a joint-defense privilege or any other

applicable privilege, immunity or protective doctrine recognized under applicable law, including contractual obligations owed to Non-Parties pursuant to non-disclosure agreements, the Parties will exchange privilege logs in compliance with privilege log and other privilege procedures to be agreed to by the Parties.

## 9. MODIFICATION

This ESI Protocol may be modified by agreement of the affected Parties or by the Court for good cause shown. Nothing in this ESI Protocol waives the right of any Party to petition the Court for an Order modifying its terms upon good cause shown, provided, however, that the affected Parties must first meet and confer and use reasonable best efforts to negotiate an exception from or modification to this ESI Protocol prior to seeking relief from the Court.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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SUPPLY

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*City and County of Honolulu, et al., v. Sunoco LP, et al.*; Civil No. 1CCV-20-0000380;  
Stipulated Order Regarding Discovery of Electronically Stored Information (“ESI Protocol”);  
Appendix

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*City and County of Honolulu, et al., v. Sunoco LP, et al.*; Civil No. 1CCV-20-0000380;  
Stipulated Order Regarding Discovery of Electronically Stored Information (“ESI Protocol”);  
Appendix 1.

DATED: May 18, 2023

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EXXONMOBIL OIL CORPORATION

DATED: May 18, 2023

/s/ Ted N. Pettit  
TED N. PETTIT  
Attorney for Defendant  
MARATHON PETROLEUM CORP.

APPROVED AND SO ORDERED:

/s/ Lisa W. Cataldo



JUDGE OF THE ABOVE-ENTITLED COURT

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*City and County of Honolulu, et al., v. Sunoco LP, et al.*; Civil No. 1CCV-20-0000380;  
Stipulated Order Regarding Discovery of Electronically Stored Information (“ESI Protocol”);  
Appendix 1.

# APPENDIX 1

### **Appendix 1: ESI Metadata and Coding Fields**

| Field Name              | Description of Field                                                                                                                                                                                                                                                               |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| BegBates                | Beginning document number                                                                                                                                                                                                                                                          |
| EndBates                | Ending document number                                                                                                                                                                                                                                                             |
| BegAttach               | Beginning document number of family unit                                                                                                                                                                                                                                           |
| EndAttach               | Ending document number of family unit                                                                                                                                                                                                                                              |
| All Custodian           | All production custodians (including the identity of other custodians for deduplicated records) must be listed in the “All Custodian” field of the copy of the single record that is produced; Multiple custodians in the “All Custodian” field shall be separated by a semicolon. |
| Author                  | Author field extracted from the metadata of the native file                                                                                                                                                                                                                        |
| From                    | Sender of the e-mail message                                                                                                                                                                                                                                                       |
| To                      | Recipient(s) of the e-mail message                                                                                                                                                                                                                                                 |
| CC                      | Recipient(s) of “carbon copies” of the e-mail message                                                                                                                                                                                                                              |
| BCC                     | Recipient(s) of “blind carbon copies” of the e-mail message                                                                                                                                                                                                                        |
| Subject                 | Subject field extracted from the metadata of the native file                                                                                                                                                                                                                       |
| Time Zone               | Time zone used to normalize data during processing                                                                                                                                                                                                                                 |
| Sent Date/Time          | Date and time the e-mail message was sent (produced in “MM/DD/YYYY HH:MM:SS” 24 hour format)                                                                                                                                                                                       |
| Date Created            | For non-emails (produced in “MM/DD/YYYY HH:MM:SS” 24 hour format)                                                                                                                                                                                                                  |
| Last Modified Date/Time | For non-emails (produced in “MM/DD/YYYY HH:MM:SS” 24 hour format)                                                                                                                                                                                                                  |
| File Type               | Mail, Calendar, Attachment, E-Doc/Individual File                                                                                                                                                                                                                                  |
| File Extension          | File extension of document (.msg, .doc, .xls, etc.)                                                                                                                                                                                                                                |
| File Name               | Name of original file                                                                                                                                                                                                                                                              |
| Title                   | Title of a non-email document (Microsoft Title field)                                                                                                                                                                                                                              |
| Hash Value              | MD5 or SHA-1 Hash Value, unique document identifier                                                                                                                                                                                                                                |
| Nativelink              | Relative file path to each native file in the production volume                                                                                                                                                                                                                    |
| Textpath                | The path to the corresponding OCR or extracted text file included with a production volume.                                                                                                                                                                                        |
| Confidentiality         | e.g., “Confidential,” “Highly Confidential”, “Null”, etc. – subject to specific Confidentiality designations in case Protective Order                                                                                                                                              |
| Redaction               | Indicating whether a file includes any redactions                                                                                                                                                                                                                                  |