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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 NATIVE VILLAGE OF KIVALINA and CITY
OF KIVALINA,

15 Plaintiffs,

16 vs.

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

26 Defendants.

CASE NO. C 08-01138 SBA

**AMENDED RE-NOTICE OF
MOTION AND MOTION OF
CERTAIN OIL COMPANY
DEFENDANTS TO DISMISS
PLAINTIFFS' COMPLAINT
PURSUANT TO FED. R. CIV. P.
12(b)(6)**

**[Memorandum of Points and
Authorities in Support Thereof
Previously Filed on June 30, 2008;
Reply Memorandum in Support
Thereof Previously Filed on
November 18, 2008]**

Time: May 19, 2009, 1:00 P.M.
Ctrm.: Courtroom 3, 1301 Clay Street,
Oakland, California
The Honorable Sandra B. Armstrong

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1 **AMENDED RE-NOTICE OF MOTION AND MOTION**

2 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE that on May 19, 2009 at 1:00 P.M., or as soon thereafter as
4 counsel may be heard in Courtroom 3 of the above-captioned Court, located at 1301 Clay Street,
5 Oakland, California, 94612, Defendants Shell Oil Company, Exxon Mobil Corporation, Chevron
6 Corporation, Chevron U.S.A. Inc., ConocoPhillips Company, BP America Inc., and BP Products
7 North America Inc. (“Oil Company Defendants” or “Defendants”) will and hereby do move to
8 dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6).

9 By this motion, Defendants seek an order from this Court dismissing the case with
10 prejudice. This motion is based on this Amended Re-Notice of Motion and Motion; the “Notice
11 of Motion and Motion of Certain Oil Company Defendants to Dismiss Plaintiffs’ Complaint
12 Pursuant to Fed. R. Civ. P. 12(b)(6)” previously filed on June 30, 2008 (the “June 30, 2008
13 Notice of Motion”); the Memorandum of Points and Authorities attached to the June 30, 2008
14 Notice of Motion; and the “Reply Memorandum in Support of the Motion of Certain Oil
15 Company Defendants to Dismiss Plaintiffs’ Complaint Pursuant to Fed. R. Civ. P. 12(b)(6)”
16 previously filed on November 18, 2008; the pleadings and records on file in this action; such
17 additional authority and argument as may be presented at the hearing on this Motion; and such
18 other matters of which this Court may take judicial notice.

19 This Amended Re-Notice of Motion and Motion are being filed pursuant to this Court’s
20 February 18, 2009 Order. In accordance with that Order, the Oil Company Defendants are not re-
21 filing any of the above-mentioned pleadings that have been previously filed.

22 Pursuant to Section C of this Court’s Standing Order (as revised June 16, 2008),
23 Defendants, through counsel, certify that, as contemplated in the stipulation previously filed with
24 the Court on May 8, 2008, counsel for Defendants and counsel for Plaintiffs met and conferred
25 telephonically on May 19, 2008, concerning, *inter alia*, the grounds to be asserted in this motion.
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Dated: March 3, 2009

Respectfully Submitted,

MUNGER, TOLLES & OLSON LLP

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By: /s/ John F. Daum
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