

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE, *ex rel.*)
KATHLEEN JENNINGS, Attorney)
General of the State of Delaware,)

Plaintiff,)

v.) C.A. No. N20C-09-097 MMJ CCLD

BP AMERICA INC., BP P.L.C.,)
CHEVRON CORPORATION,)
CHEVRON U.S.A. INC.,)
CONOCOPHILLIPS,)
CONOCOPHILLIPS COMPANY,)
PHILLIPS 66, PHILLIPS 66 COMPANY,)
EXXON MOBIL CORPORATION,)
EXXONMOBIL OIL CORPORATION,)
XTO ENERGY INC., HESS)
CORPORATION, MARATHON OIL)
CORPORATION, MARATHON OIL)
COMPANY, MARATHON)
PETROLEUM CORPORATION,)
MARATHON PETROLEUM)
COMPANY LP, SPEEDWAY LLC,)
MURPHY OIL CORPORATION,)
MURPHY USA INC., ROYAL DUTCH)
SHELL PLC, SHELL OIL COMPANY,)
CITGO PETROLEUM CORPORATION,)
TOTAL S.A., TOTAL SPECIALITIES)
USA INC., OCCIDENTAL)
PETROLEUM CORPORATION,)
DEVON ENERGY CORPORATION,)
APACHE CORPORATION, CNX)
RESOURCES CORPORATION,)
CONSOL ENERGY INC., OVINTIV,)
INC., and AMERICAN PETROLEUM)
INSTITUTE,)

Defendants.)

ORDER

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JOHNSTON, J.

On the Applications for Certification of Interlocutory Appeal filed by
Defendants Apache Corporation, CNX Resources Corporation,
Citgo Petroleum Corporation, Murphy USA, Inc., and Consul Energy, Inc.
DENIED

Defendants' Motion for Leave to File a Reply
DENIED AS MOOT

ORDER

The Court issued an Opinion dated January 9, 2024. The Court granted in part and denied in part various motions to dismiss.

The State of Delaware moved for an order certifying an interlocutory appeal to the Delaware Supreme Court. Certain Defendants filed pleadings entitled Conditional Cross-Application for Certification of Interlocutory Appeal. By Order dated February 14, 2024, the Court denied the State's Application for Certification of Interlocutory Appeal and Defendants' Conditional Cross-Application for Certification of Interlocutory Appeal.

On a parallel track, certain Defendants moved for reargument. By Order dated February 12, 2024, the Court denied reargument. Meanwhile, certain Defendants filed notices of appeal from interlocutory orders in the Supreme Court.

As a result of these overlapping motions, applications and notices, the deadlines (and even available jurisdiction) for filing applications and responses and this Court's action, on the pending applications for interlocutory appeal, became unclear. Additionally, the moving Defendants in the most recent interlocutory appeal applications have moved for leave to file a reply.

The State has opposed the pending applications on the grounds that the Rule 42(b)(iii) factors have not been satisfied, and the applications are untimely.

The Court finds that the most recent applications for interlocutory appeal raise essentially the same arguments asserted in the prior applications.

THEREFORE, for the reasons set forth in the Court's February 14, 2024 Order, the Applications for Certification of Interlocutory Appeal filed by Defendants Apache Corporation, CNX Resources Corporation, Citgo Petroleum Corporation, Murphy USA, Inc., and Consul Energy, Inc. are hereby **DENIED**. Defendants' Motion for Leave to File a Reply is hereby **DENIED AS MOOT**.

IT IS SO ORDERED.

Dated: March 26, 2024

/s/ Mary M. Johnston
The Honorable Mary M. Johnston