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5 Attorneys for Defendants
Shell Oil Company,
6 dba "Shell Chemical Company",
Chevron U.S.A. Inc., and PureGro
7 Company

FILED-Central District
SUPERIOR COURT
SAN BERNARDINO COUNTY

JUN - 1 2007

By Stephanie Chandler
Deputy

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN BERNARDINO**
11

12 Coordination Proceeding
Special Title (Rule 1550(b))

) **CASE NO. SCVSS120627**

) **JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4435**

14 **JUDICIAL COUNCIL COORDINATION**
15 **PROCEEDING 4435 - TCP CASES**

) Coordination Judge: The Honorable Donald
Alvarez, Dept. 15

16 ~~PROPOSED~~ **]** **CASE MANAGEMENT**
17 **ORDER NO. 3 - RE ELECTRONIC**
18 **SERVICE IN ALL COORDINATED**
19 **CASES**

20
21
22 **THIS DOCUMENT PERTAINS TO ALL**
23 **COORDINATED CASES WITHIN JCCP**
24 **4435.**

1 Pursuant to paragraph B of this Court's initial Case Management Order dated
2 January 13, 2006, counsel for all parties have submitted this proposed Case Management Order
3 No. 3 – Re Electronic Service in all Coordinated Actions (“CMO #3”).

4 Furthermore, pursuant to the provisions of Code of Civil Procedure sections 128, 187,
5 1005 and 1013, California Rule of Court 3.751, Government Code section 68070, and the
6 California Judicial Council's Deskbook on the Management of Complex Civil Litigation
7 (LexisNexis, 2006), the Court finds that entry of this Order is necessary for the just and efficient
8 resolution of the above-referenced coordinated actions, which are encompassed within Judicial
9 Council Coordination Proceeding (JCCP) 4435.

10
11 **I. LEXIS NEXIS FILE & SERVE**

12 In order to facilitate case management, document retrieval and case organization, the
13 parties shall utilize the services of LexisNexis File & Serve (“LNFS”) and its litigation system
14 (the “System”) to serve all pleadings and discovery-related documents that must be served on
15 all counsel of record in any one or more of the above-referenced coordinated actions. Counsel
16 also may use LNFS for service of correspondence but are NOT required to do so. The use of
17 LNFS in these coordinated cases is intended to provide a secure website for the electronic
18 delivery, service and storage of served documents and a reliable and verifiable conduit for party
19 communications. (LNFS will not serve as a document repository for documents produced by
20 the parties or third parties in response to requests for production of documents, deposition
21 notices and/or subpoenas.) The parties are hereby notified that the Court (as used herein, the
22 term “Court” shall be deemed to include the Discovery Referee) may also elect from time to
23 time to use the System. The features of and procedures for using the System are described
24 below.

25 **A. Service, Message Board and Calendar**

26 The System shall apply to only the service of documents and not to their filing.
27 Documents still must be filed with the Court in the traditional manner — i.e., parties must file
28 the documents with the Court Clerk. Except as otherwise provided by this Order, LNFS shall

1 be the required method of service deemed to comply with the Code of Civil Procedure as valid
2 and effective service on counsel of record in these coordinated actions. Although LNFS must be
3 utilized as the required method of service, any party may, in addition, serve documents by hand
4 in which case the time to make any response or take any action shall be based upon the hand
5 service and the Code of Civil Procedure. The LNFS Message Board and Calendar features also
6 shall be activated, and the parties shall use them as directed by the Court.

7 B. Set-Up Fee and Related Fees

8 There shall be no cost to the Court for the use of the System. LNFS shall individually
9 invoice each law firm acting as counsel of record. LNFS's current price sheet for e-service is
10 attached to this Order as Exhibit A, but pricing is subject to change. (In addition, at this time,
11 the cost to post items on the Calendar shall be \$5.00 per posting, and the parties shall pay a \$.50
12 per recipient fee for Calendar postings. The cost of the Message Board feature shall be \$2.00 /
13 month per firm.)

14 C. Service List and Registration

15 Within five (5) days of the date of service of Notice of Entry of this Order, counsel for
16 defendant Shell Oil Company shall submit to LNFS representative Larry Amdur
17 (larry.amdur@lexisnexis.com) a current service list of counsel of record in each of the
18 coordinated cases. Also within five (5) days of the date of service of Notice of Entry of this
19 Order [or within five (5) days of entry of an appearance by any new party or counsel of record],
20 each attorney of record shall register to use LNFS via its website at
21 <http://www.lexisnexis.com/fileandserve>. Counsel also shall review the procedures set forth in
22 Exhibit B attached to this Order, which sets forth the procedure for registration with LNFS. See
23 Exhibit B, *LexisNexis File & Serve Welcome Kit*. The resulting list of registered attorneys of
24 record, as may be amended from time to time, shall constitute the "Service List" for the System.

25 In the event that new defendants are named and served with process in any of the
26 coordinated actions after the entry of this Order, counsel for Plaintiffs shall serve this Order
27 upon such new defendants at the time the Summons and Complaint are served. New counsel
28 are hereby ordered to comply with the terms of this Order at the time they make their initial

1 appearance in any of the coordinated cases. Any other cases that are added to JCCP 4435 shall
2 be deemed subject to this CMO #3, and counsel for parties in any such add-on cases shall
3 comply with its terms.

4
5 **II. PROCEDURES FOR USING LNFS**

6 A. LNFS shall establish and maintain an Internet website (the "website"). All
7 documents served by the parties will be posted by LNFS to the website as provided herein.
8 LNFS will post documents based on the instructions of the party serving the document as to
9 which coordinated actions the served document relates, but shall serve each document as
10 provided herein on the parties listed on the Service List. A served document that applies to all
11 related actions shall be posted under the "City of Redlands" action with a notation in the title of
12 the document that it "Applies to all coordinated actions." To address any training or technical
13 questions that may arise during the course of this litigation, LNFS shall have available to
14 counsel of record and the Court a 24-hour 7-days a week customer service resource at
15 (888) 529-7587.

16 B. Every pleading, document and instrument served electronically shall bear a
17 facsimile or typographical signature of at least one of the serving attorneys of record, along with
18 the typed name, address, telephone number and California State Bar number (or indication of
19 *pro hac vice* admission) for such attorney. Word-processing documents transferred to LNFS via
20 the website need not contain visual representations of the serving attorneys' signatures.
21 Typographical signatures shall be treated the same as personal/original signatures for purposes
22 of the Code of Civil Procedure. On word-processing files that are submitted, attorneys shall, in
23 place of a signature and where the signature would normally appear, place the notation "/s/"
24 followed by the typed name of the serving attorney.

25 C. All documents to be served shall be sent to LNFS by one of the following
26 methods: (i) electronic transfer of the document file to LNFS via the website (either a word-
27 processing file, a scanned image of the document, or an Adobe Portable Document Format
28 ("PDF") file) or (ii) fax transmission using the System's web-based interface (a special cover

1 sheet created on the LNFS web site). Regardless of transmission method, all document service
2 must be initiated on the website by a registered user. LNFS will convert all documents received
3 by it into PDFs and make them available in a manner consistent with this Order.

4 D. Upon its receipt of a document, LNFS shall immediately process the document
5 for service as described below. Upon posting the document, LNFS shall date and time stamp
6 each document (electronically or otherwise). Unless a Court-filed document is rejected by the
7 Court clerk, as discussed below, this date and time stamp shall constitute the date and time of
8 service of the document. However, any document date/time stamped by LNFS after 4:00 p.m.
9 Pacific Time on a day the Court is open for business shall be deemed to have been served on the
10 next court day. (Counsel are advised to submit documents to LNFS not later than 3:30 p.m.
11 Pacific Time in order to secure a same-day date/time stamp.) Service of documents via LNFS
12 pursuant to this Order shall be deemed the equivalent of service by Express Mail under Code of
13 Civil Procedure section 1013(c) [i.e., any right or duty to do any act or make any response
14 within any period shall be extended by 2 court days, but the extension shall not apply to extend
15 the time for filing notice of intention to move for a new trial, notice of intention to move to
16 vacate judgment pursuant to Code of Civil Procedure section 663a, or notice of appeal].

17 E. After documents have been received by LNFS, they shall be posted to the
18 website pursuant to the following time schedule: (i) electronic documents will be posted by
19 LNFS within one hour of receipt; and (ii) faxed documents will be posted by LNFS within six
20 business hours of receipt.

21 F. Within one hour of the time a document is posted to the website, or as otherwise
22 directed by each registered LNFS user, LNFS shall send an e-mail to all parties on the Service
23 List stating that the document has been served, the date and time of service, and that the
24 document has been posted to the website. The e-mail shall contain hypertext link(s) to the
25 document location(s) on the System or PDF copy/copies of the document(s).

26 G. In the event a document that was intended to be filed with the Court is rejected
27 by the Court Clerk for filing after it has been posted on the website by LNFS, the party that
28 caused the document to be posted shall immediately notify LNFS that the document was

1 rejected by the Court for filing, and LNFS shall promptly notify all parties on whom that
2 document was served of the fact of rejection, and LNFS shall cause a permanent notation to be
3 placed on the website memorializing the fact of rejection.

4 H. Subject to the provisions of subsection II(A), above, each document posted on
5 the System shall be identified upon posting to the System as follows:

- 6 i. The case or cases in which the document is being served;
- 7 ii. The name of the law firm serving the document;
- 8 iii. The precise title of the document as set forth on the document; and
- 9 iv. The identity of the party or parties on whose behalf the document is being
10 served.

11 I. The System shall contain an index of all served documents, which will be
12 searchable and sortable according to methods that provide useful access to the documents.

13 J. Access to the System will be limited to registered users. Registered users will
14 consist of the following depending on the circumstances of each case: (i) the Court; (ii) counsel
15 of record and their designated staff members, and (iii) in-house counsel for parties and their
16 designated staff members. Each attorney or other authorized user shall register as ordered
17 above and will thereupon receive a unique username and password. LNFS personnel will
18 perform all administrative functions for the System, but all initial data, additions, deletions or
19 changes to the service list for each of the coordinated cases must be arranged through counsel
20 for Shell.

21 K. Any document transmitted to the System shall certify in a one-page Proof of
22 Service that a true and correct copy was electronically served on counsel of record on the
23 Service List by transmission to LNFS. The Proof of Service need not include a list of the
24 parties and/or counsel being served via LNFS.

25 L. Until further notice, documents filed under seal ("sealed documents") shall not
26 be served via the System. Service of sealed documents shall be made pursuant to the Code of
27 Civil Procedure.

28

1 M. If electronic service does not occur due to (1) technical problems with the
2 System; (2) failure to serve by LNFS; or (3) erroneous exclusion of a party or counsel from the
3 service list, the entity or person that should have been served shall be entitled (on proper
4 showing to the Court and as otherwise authorized by law) to an order extending the date for any
5 response or the period within which to perform any right or duty to do any act or to make any
6 response.

7 N. Service of *ex parte* notice shall be made in a manner consistent with the Code of
8 Civil Procedure, Rules of Court and Local Rules and shall NOT be given through the use of the
9 System. However, so that the electronic file for these coordinated cases is complete, the System
10 shall be used in addition to the standard methods of *ex parte* notice required by law.

11 O. If serving counsel makes a good faith determination that documents such as
12 oversized exhibits to declarations or other real objects are not readily susceptible to electronic
13 viewing or service, they may be served in paper or other native form in accordance with the
14 Code of Civil Procedure. In such instances, counsel shall nevertheless serve a "Notice of
15 Exempt Service" via the LNFS System, which shall describe the documents or other items
16 served.

17
18 **IT IS SO ORDERED.**

19 JUN - 1 2007

20 Dated: _____

DONALD ALVAREZ

21 THE HONORABLE DONALD ALVAREZ
22 JUDGE OF THE SUPERIOR COURT
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File & Serve



ESERVICE TRANSACTION FEE PRICING

LexisNexis File & Serve ("LNFS") is pleased to offer the following staged pricing for electronic service on the LNFS eService platform for any of your litigations

- **Service In Individual Litigations** – The transaction for service of a document(s) in a single uploading transaction in any litigation is determined according to the following case type pricing matrix (the determination of which case type applies to a particular litigation is simply made by counting the number of law firms involved in the litigation at the outset of the eService system set-up):

<u>Case Type</u>		<u>Transaction Fee*</u>
2-4 firms	=	\$6.00 per transaction
5-7 firms	=	\$9.00 per transaction
8-10 firms	=	\$12.00 per transaction
11-20 firms	=	\$19.00 per transaction
21+ firms	=	@\$0.95 per firm per transaction

One time \$25 Repository Licensing Fee per case

- A "**transaction**" is the uploading/service of a single main document and any related exhibits and attachments to that main document, of any aggregate length, on the LNFS platform for any single litigation. The serving firm shall incur a transaction fee upon each completed upload transaction.
- A "**law firm**" is counted as a single law firm regardless of (i) the number of parties that the firm represents in a litigation, or (ii) the number of attorneys in such firm who are to be registered for that litigation.

Thank you for your interest in LexisNexis File & Serve!

FRED TARAZON
ACCOUNT EXECUTIVE
LexisNexis File & Serve
425-460-2184 Direct
206-234-5415 Cell
fred.tarazon@lexisnexis.com

* This pricing is subject to change and will be posted according to the general user terms and agreements.

EXHIBIT - A^u

LexisNexis® File & Serve Welcome Kit

Step 1. Registration

If this is your firm's first LexisNexis File & Serve case, you will need to create a LNF&S account before registering. The firm must designate an administrator who will create the account and add users. The administrator will follow the *Instructions for New Subscribers in Section A*.

If your firm has a LexisNexis File & Serve account, contact your firm's administrator to obtain a user name & password for yourself and anyone else who will need to serve or access documents in the case. The administrator will follow the *Instructions for Existing Subscribers in Section B*.

To find out if your firm has a LexisNexis File & Serve account or the name of your administrator, please call Customer Support at 1.888.529.7587.

Section A: Instructions for New Subscribers (Administrator sets up account and registers users)

1. Visit www.lexisnexis.com/fileandserve/lawfirms/register.asp and click Register.
2. Add organization information.
3. Add user information for administrator (primary contact).
4. Add user information for every attorney and staff member in your firm who will need a user ID and password. Include full name, phone, fax, email and bar number (for attorneys). **All attorneys of record must have a user ID and password.**
5. Review system requirements.
6. Review and accept Terms of Service Agreement by selecting an authorizing attorney.

Section B: Instructions for Existing Subscribers (Administrator registers new users)

1. Sign on to www.lexisnexis.com/fileandserve
2. Select Preferences in the upper right hand corner of the screen. Click Firm Profile.
3. Click the Add Users tab and enter user information for every attorney and staff member who will need a user ID and password. Include full name, phone, fax, email and bar number (for attorneys). **All attorneys of record must have a user ID and password.**

Step 2: Training

We strongly recommend that **all of the users in your firm (including attorneys) take advantage of LexisNexis File & Serve free, online training classes.**

Classes will cover:

- ↘ The basics of using the LexisNexis File & Serve system to serve documents
- ↘ Searching online case files
- ↘ Setting up User and Firm Profiles

Course dates and times for Eservice classes

- ↘ Every Thursday, 10:30 – 11:45 AM PST (12:30 CT; 1:30 ET)

To register for a class, please sign On to the product, then click on the Resource Center link in the upper right of the product.

Then choose "California" from the drop down menu for live online training classes.

For training questions, call 800-399-6934 or email fileandservetraining@lexisnexis.com

Welcome Kit
November 2006

EXHIBIT "B"