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8 *Department of Toxic Substances Control and the*
9 *Toxic Substances Control Account*

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA

12
13 CALIFORNIA DEPARTMENT OF TOXIC
14 SUBSTANCES CONTROL and the TOXIC
15 SUBSTANCES CONTROL ACCOUNT,

16 Plaintiffs,

17 v.

18 EXXON MOBIL CORPORATION; E.I.
19 DUPONT DE NEMOURS AND COMPANY,
INC.; CHEVRON U.S.A., INC.; CHEVRON
20 ORONITE COMPANY LLC; SHELL OIL
COMPANY; PACIFIC GAS AND ELECTRIC
21 COMPANY; PROLOGIS, INC.; FMC
CORPORATION; UNION PACIFIC
22 RAILROAD COMPANY; UNITED STATES
STEEL CORPORATION; INTERNATIONAL
23 BUSINESS MACHINES CORPORATION;
and BAYER CROPSCIENCE, INC.,

24 Defendants.

Case No.

COMPLAINT FOR RECOVERY OF
RESPONSE COSTS and DECLARATORY
RELIEF (42 U.S.C. §§ 9601 et seq.)

25
26 Plaintiffs, the California Department of Toxic Substances Control (“DTSC”) and the Toxic
27 Substances Control Account (collectively referred to herein as “Plaintiffs”) allege as follows:
28

STATEMENT OF THE CASE

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2 1. This is a civil action brought by Plaintiffs against Exxon Mobil Corporation; E.I.
3 DuPont De Nemours and Company, Inc.; Chevron USA, Inc.; Chevron Oronite Company LLC;
4 Shell Oil Company; Pacific Gas and Electric Company; Prologis, Inc.; FMC Corporation; Union
5 Pacific Railroad Company; United States Steel Corporation; International Business Machines
6 Corporation; and Bayer CropScience, Inc. (each individually referred to herein as a “Defendant”
7 and collectively referred to herein as the “Defendants”) under sections 107(a) of the
8 Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42
9 U.S.C. § 9607(a), for the recovery of unreimbursed response costs that Plaintiffs have incurred,
10 and interest on such response costs, in connection with releases and threatened releases of
11 hazardous substances at, beneath, above, and/or from the Panoche landfill (“Panoche”), a closed
12 hazardous waste treatment and disposal landfill located in Solano County, California.

13 2. Plaintiffs further make a claim for declaratory relief, under 28 U.S.C. § 2201 and
14 section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), for a declaratory judgment that each
15 Defendant is jointly and severally liable to Plaintiffs for the response costs Plaintiffs have
16 incurred, and for any further response costs Plaintiffs incur in the future as result of any release or
17 threatened release of a “hazardous substance,” as defined in CERCLA section 101(14), 42 U.S.C.
18 § 9601(14), at Panoche.

19 3. Panoche was operated as a hazardous and solid waste landfill until it ceased accepting
20 waste in or about 1986. Panoche, and the horizontal and vertical extent of contamination caused
21 by the releases and threatened releases of hazardous substances from Panoche, is a “facility”
22 within the meaning of sections 101(9)(A) and 101(9)(B) of CERCLA, 42 U.S.C. §§ 9601(9)(A),
23 9601(9)(B).

JURISDICTION AND VENUE

24
25 4. The court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and section
26 113(b) of CERCLA, 42 U.S.C. § 9613(b).

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28

1 place of business in Wilmington, Delaware. DTSC is further informed and believes, and based
2 on such information and belief alleges, that DUPONT “arranged for disposal or treatment ... of
3 hazardous substances,” as set forth in section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at
4 Panoche.

5 10. Defendant CHEVRON U.S.A. INC. (“CHEVRON USA”) is a corporation organized
6 and existing under the laws of the State of Pennsylvania. DTSC is informed and believes, and
7 based on such information and belief alleges, that CHEVRON USA has its principal place of
8 business in San Ramon, California. DTSC is further informed and believes, and based on such
9 information and belief alleges, that CHEVRON USA (including for itself and by and through its
10 division known as Chevron Products Company) “arranged for disposal or treatment ... of
11 hazardous substances,” as set forth in section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at
12 Panoche.

13 11. Defendant CHEVRON ORONITE COMPANY LLC is a Delaware limited liability
14 company. DTSC is informed and believes, and based on such information and belief alleges, that
15 Defendant CHEVRON ORONITE COMPANY LLC is the successor-in-interest to Chevron
16 Chemical Company, which DTSC is informed and believes, and based on such information and
17 belief alleges, “arranged for disposal or treatment ... of hazardous substances,” as set forth in
18 section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at Panoche.

19 12. Defendant SHELL OIL COMPANY (“SHELL”) is a corporation organized and
20 existing under the laws of the State of Delaware. DTSC is informed and believes, and based on
21 such information and belief alleges, that SHELL has its principal place of business in Houston,
22 Texas. DTSC is further informed and believes, and based on such information and belief, alleges,
23 that SHELL “arranged for disposal or treatment ... of hazardous substances,” as set forth in
24 section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at Panoche.

25 13. Defendant PACIFIC GAS & ELECTRIC COMPANY (“PGE”) is a corporation
26 organized and existing under the laws of the State of California. DTSC is informed and believes,
27 and based on such information and belief alleges, that PGE has its principal place of business in
28 San Francisco, California. PGE “arranged for disposal or treatment ... of hazardous substances,”

1 as set forth in section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at Panoche.

2 14. Defendant PROLOGIS, INC. (“PROLOGIS”) is a real estate investment firm with
3 headquarters in San Francisco, California. DTSC is informed and believes, and based on such
4 information and belief alleges, that PROLOGIS, through its related entity PROLOGIS
5 CALIFORNIA, INC., is the successor, through a series of mergers and acquisitions, to Southern
6 Pacific Development Company, which DTSC is informed and believes, and based on such
7 information and belief alleges, “arranged for disposal or treatment ... of hazardous substances,”
8 as set forth in section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at Panoche.

9 15. Defendant FMC CORPORATION (“FMC”) is a corporation organized and existing
10 under the laws of the State of Delaware. DTSC is informed and believes, and based on such
11 information and belief alleges, that FMC has its principal place of business in Philadelphia,
12 Pennsylvania. DTSC is further informed and believes, and based on such information and belief
13 alleges, that FMC “arranged for disposal or treatment ... of hazardous substances,” as set forth in
14 section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at Panoche.

15 16. Defendant UNION PACIFIC RAILROAD, INC. (“UNION PACIFIC”) is a
16 corporation organized and existing under the laws of the State of Delaware. DTSC is informed
17 and believes, and based on such information and belief alleges, that UNION PACIFIC has its
18 principal place of business in Omaha, Nebraska. DTSC is informed and believes, and based on
19 such information and belief alleges, that UNION PACIFIC is the successor-in-interest to
20 Southern Pacific Transportation Company, which DTSC is informed and believes, and based on
21 such information and belief alleges, “arranged for disposal or treatment ... of hazardous
22 substances,” as set forth in section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at Panoche.

23 17. Defendant UNITED STATES STEEL CORPORATION (“U.S. STEEL”) is an
24 integrated steel producer with headquarters in Pittsburgh, Pennsylvania. DTSC is informed and
25 believes, and based on such information and belief alleges, that U.S. STEEL “arranged for
26 disposal or treatment ... of hazardous substances,” as set forth in section 107(a) of CERCLA, 42
27 U.S.C. § 9607(a), at Panoche.

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