

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re: Methyl Tertiary Butyl Ether
("MTBE") Products Liability Litigation

Master File No. 1:00-1898
MDL 1358 (VSB)
M21-88

This document relates to:

Orange County Water District v. Unocal, et al.,
Case No. 04 Civ. 4968 (VSB)

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SUGGESTION OF REMAND

On May 6, 2003, Plaintiff Orange County Water District ("OCWD") filed its Complaint against Defendants in Orange County Superior Court, alleging that Defendants were liable for methyl tertiary butyl ether ("MTBE") and tertiary butyl alcohol ("TBA") in the Orange County Water District's drinking water supplies. On June 16, 2004, the Judicial Panel on Multidistrict Litigation transferred this case to this Court for coordinated and consolidated pretrial proceedings in MDL No. 1358.

On November 5, 2015, pursuant to a Suggestion to Remand issued by this Court, the JPML issued a "Separation of Claims and Conditional Remand Order" remanding sixteen focus plume sites to the Transferor Court in the Central District of California for all further proceedings, including additional pretrial and trial proceedings.

On December 5, 2015, OCWD filed an appeal in the Second Circuit of the partial final judgment pursuant to Federal Rule of Civil Procedure 54(b) granted to defendants Texaco Refining and Marketing, Inc., Equilon Enterprises LLC, Shell Oil Company, d/b/a Shell Oil Products US (collectively "Shell") and Atlantic Richfield Company, f/k/a Arco Petroleum Company, d/b/a Arco Products Company a/k/a Arco, BP Products North America, Inc., BP West Coast LLC (collectively "Arco/BP"), finding that OCWD's claims against these defendants were

barred by the doctrine of res judicata.

On June 12, 2017, the Second Circuit vacated the MDL Court's res judicata determination and remanded OCWD's claims against defendants Arco/BP and Shell (collectively, "Defendants") to this Court for further proceedings consistent with its opinion. On July 11, 2017, the Second Circuit Court of Appeals denied Defendants' petition for rehearing. On July 19, 2017, the Second Circuit issued a mandate transferring jurisdiction over OCWD's claims against Defendants to this Court.

The parties have completed all discovery related to the Arco/BP and Shell focus sites identified in Exhibit A to Case Management Order #116. (Doc. 4034.)

The Court hereby finds that the consolidated pretrial proceedings have run their course with respect to the claims related to the Arco/BP and Shell focus plume sites. The Court therefore suggests that the Panel remand to the United States District Court for the Central District of California all remaining claims as to the Arco/BP and Shell focus plume sites for all further proceedings, including additional pretrial and trial proceedings. Attached as Exhibit 1 is the list of the remaining claims for relief and defendants at each Arco/BP and Shell focus plume site to be remanded for trial in this matter. All other claims for relief were either decided against the Plaintiff or stipulated as dismissed on the terms set forth in the applicable stipulations, subject to the right to appeal, so no other claims or defendants remain at these sites for purposes of trial after remand. As of this time this Court will retain jurisdiction over the remainder of the Action (i.e., the non-focus plume sites) in order to conduct coordinated and consolidated pretrial proceedings.

DATE: November 13, 2017
New York, New York

SO ORDERED:



The Honorable Vernon S. Broderick

EXHIBIT 1

Orange County Water District v. Unocal
Focus Stations and Claims for Remand

Plume#	Station Name and Address	Defendants	Claims Remaining
1	Area #1887 16742 Beach Boulevard, Huntington Beach	Arco/BP	Continuing Nuisance Declaratory Relief
1	Texaco #8520/Texaco #121608 8520 Warner Avenue, Fountain Valley	Texaco/Equilon	Continuing Nuisance Declaratory Relief
1	Texaco #121681 9475 Warner Avenue, Fountain Valley	Texaco/Equilon	Continuing Nuisance Declaratory Relief
2	Area #61231 3201 Harbor Boulevard, Costa Mesa	Arco/BP	Continuing Nuisance Declaratory Relief
2	Arco #1912 18480 Brookhurst Street, Fountain Valley	Arco/BP	Continuing Nuisance Declaratory Relief
2	Thrifty #383 18520 Brookhurst Street, Fountain Valley	Arco/BP	Continuing Nuisance Declaratory Relief
3	Arco #1905 18025 Magnolia Street, Fountain Valley	Arco/BP	Continuing Nuisance Declaratory Relief
8	Area #3085 3361 South Bristol Street, Santa Ana	Arco/BP	Continuing Nuisance Declaratory Relief
9	Westminster Shell 5981 Westminster Avenue, Westminster	Shell/Equilon	Continuing Nuisance Declaratory Relief
9	Thrifty #368 6311 Westminster Boulevard, Westminster	Arco/BP	Continuing Nuisance Declaratory Relief
63	Arco #6036 13142 Goldenwest Street, Westminster	Arco/BP	Continuing Nuisance Declaratory Relief