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Response to Conophillips' Opposition to UN Rapporteurs Amicus Brief

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

SOVEREIGN IÑUPIAT FOR A LIVING
ARCTIC, et al.,

Plaintiffs,

v.

BUREAU OF LAND MANAGEMENT, et
al.,

Defendants,

and

CONOCOPHILLIPS ALASKA, INC.,

Intervenor-Defendant.

Case No. 3:23-cv-00058-SLG

CENTER FOR BIOLOGICAL
DIVERSITY, et al.,

Plaintiffs,

v.

BUREAU OF LAND MANAGEMENT, et
al.,

Defendants,

and

CONOCOPHILLIPS ALASKA, INC., et
al.,

Intervenor-Defendants.

Case No. 3:23-cv-00061-SLG

**RESPONSE TO CONOCOPHILLIPS' OPPOSITION TO UN
RAPPORTEURS AMICUS BRIEF**

Defendant-Intervenor ConocoPhillips made a number of incorrect and misleading statements in their opposition to the UN Special Rapporteurs proposed amicus brief. This response explains the relationship of the UN Special Rapporteurs to American University's Washington College of Law, as well as the employment status of the two attorneys who authored the UN Rapporteurs' amicus brief.

ConocoPhillips argues that the amicus brief is "authored by counsel for a party to this litigation" and assumes that the amicus brief is "an attempt by CBD to present additional arguments that it believes supports its summary judgment arguments." In its opposition brief, ConocoPhillips makes only one reference to Professor David Hunter noting that he was formerly on the Board of Directors of Greenpeace USA, apparently a party to this litigation. ConocoPhillips fails to mention that Professor Hunter ended his board service in 2011, twelve years ago, and has had no contact with anyone from Greenpeace USA or any other party regarding this litigation.

Undersigned counsel worked on and filed this amicus brief because of our longstanding interest in promoting a rights-based approach to climate change and Professor Hunter's long-term working relationship with Dr. Marcos Orellana, one of the Special Rapporteurs on whose behalf we filed this amicus brief. Professor

Hunter is the former director of both the international law program and the environmental law program at the law school, and he is currently a faculty co-director and acting interim director of the law school's Center for Human Rights and Humanitarian Law. The environmental law program is now directed by Professor William Snape, who has been at the law school since 2007.

Professor Hunter is an international environmental and human rights law scholar and am co-author of a textbook on International Environmental Law published by Foundation Press (now in its sixth edition), a textbook on climate change law (published by Lexus/Nexus and cited in our amicus brief), over a dozen articles , and- three other amicus briefs relating to the links between climate change and human rights law. Professor Hunter has also had a working relationship with Dr. Marcos Orellana, UN Special Rapporteur for Toxics and the Environment, for more than twenty-five years. Dr. Orellana received both an LLM (1998) and an SJD (doctorate) degree (2009) from American University's Washington College of Law. Professor Hunter taught Dr. Orellana back in 1997 and was his faculty supervisor and chair of the committee for his subsequent SJD. In addition, Dr. Orellana is currently an adjunct professor at the Washington College of Law where he heads a Global Toxics Initiative, a joint project of American University's environmental law program (headed by Professor Snape)

and the human rights center (headed by Professor Hunter). Dr. Orellana's office is two doors away from Professor Hunter's and he officiated his second wedding.

In sum, our long-term commitment to this issue and our relationship with Dr. Orellana explains why we agreed to work on this brief—not Professor Snape's relationship with the Center for Biological Diversity or Professor Hunter's very distant service on the Greenpeace USA Board. While it is true that Professor Snape does legal work for the Center on a very few specific special projects, he has never been involved in any fashion with the Willow litigation aside from the proposed amicus brief at issue. The biography link provided by ConocoPhillips for Professor Snape had not been updated in over a decade, if ever, is inaccurate, and has subsequently been deleted.

No other entity helped us write the amicus brief or funded our efforts. In fact, we wrote this brief *pro bono*, and have thus far paid for the court costs out of our own pockets. In sum, there was no connection between the parties and this independent amicus brief.

One other matter is worth mentioning. Although Professor Hunter fully participated in co-authoring this brief, we did not originally make a motion for pro hac vice on his account because he is in his tenth year of Parkinson's disease. The condition makes everything more difficult and take longer—typing, multi-tasking,

filing court motions, etc. –so we agreed that Professor Snape would take the lead in filing the motion and other administrative tasks associated with the brief. It is true that Professor Snape is a special counsel to the Center for Biological Diversity for specific matters, but this Willow litigation has never even remotely been in his portfolio, and he primarily co-authored to help Professor Hunter administratively due to his serious illness.

We see no reason why the UN Special Rapporteur’s brief, authored by two law professors with ties to the Rapporteurs, should be rejected. The UN Special Rapporteurs’ amicus brief is a special and unique contribution to this litigation, and their input should not be denied a voice.

Dated: August 6, 2023

Respectfully submitted,

/s/ WJ Snape III

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*(Admitted Pro Hac Vice)

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