

UNITED STATES DISTRICT COURT

for the

SOUTHERN DISTRICT OF TEXAS

Chevron Intellectual Property LLC, et al.

Plaintiff

v.

Sariel Petroleum LLC, et al.

Defendant

Civil Action No. 4:18-cv-158

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: BBVA Compass Bank c/o CT Corporation System, 1999 Bryan Street, Ste. 900, Dallas, TX 75201

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attached Schedule A.

Place: King & Spalding LLP 1100 Louisiana Street, Suite 4000 Houston, Texas 77002	Date and Time: 04/13/2018 9:00 am
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Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/16/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Abby L. Parsons

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

Chevron Intellectual Property LLC, et al. _____, who issues or requests this subpoena, are:

Abby Parsons, King & Spalding, 1100 Louisiana, Ste 4000, Houston, TX 77002, aparsons@kslaw.com, (713) 751-3294

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:18-cv-158

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Chevron Intellectual Property LLC, and
Chevron U.S.A. Inc.,

Plaintiffs,

v.

Case No. 4:18-cv-158

Sariel Petroleum, LLC, Arael Doolittle,
Alvin Diaz, and Arnold Salinas,

Defendants.

SCHEDULE A

The following Definitions and Instructions apply to the Request for Production of Documents and Things (“Requests”) contained in the Subpoena and this Schedule A.

DEFINITIONS

1. “BBVA”, “you” or “your” means BBVA Compass Bank, Bunker Hill Branch, located at 9669 Katy Freeway, Houston, Texas 77024, (713) 867-1301.

2. “Ares” means Elizabeth (“Liz”) Leary Ares, BBVA Compass Bank employee.

3. “Plaintiffs,” collectively, means Chevron Intellectual Property LLC and Chevron U.S.A. Inc.

4. “Chevron,” means, collectively and individually, any of the family of corporations existing under the parent company Chevron Corp., including Plaintiffs, among others.

5. “Sariel” means Sariel Petroleum, LLC, and its predecessors, successors, parents, subsidiaries, divisions, related companies, and other business entities controlled by it, as well as their officers, directors, employees, agents, members, and each person acting or purporting to act on its behalf or under its control, individually or collectively.

6. “Doolittle” means Defendant Arael Doolittle.

7. “Diaz” means Defendant Alvin Diaz.

8. “Salinas” means Defendant Arnold Salinas.

9. “Defendants” mean any and all of Sariel, Doolittle, Diaz, and/or Salinas.

10. Montana means Scott Montana, President of Avalant.

11. “Avalant” means Avalant International Limited, and its predecessors, successors, parents, subsidiaries, divisions, related companies, and other business entities controlled by it, as well as their officers, directors, employees, agents, members, and each person acting or purporting to act on its behalf or under its control, individually or collectively.

12. “Subject Account” means any BBVA account held by Avalant and Sariel and to which Montana is a signatory.

13. “Person,” “Individual,” or “Entity” each mean person, business, proprietorship, firm, partnership, cooperation, association, organization, governmental agency, or other entity.

14. The terms “concern,” “concerning,” “evidence,” “evidencing,” “related to,” “relates to,” “relating to,” “refer to,” “referring to,” and “regarding,” shall be construed broadly to mean in whole or in part alluding to; responding to; concerning; regarding; directly or indirectly relating to; connected with; involving; commenting on; in respect of; about; associated with; dealing with; discussing; evidencing; showing; describing; depicting; reflecting; analyzing; summarizing; mentioning; memorializing; bearing upon; consisting of; constituting; containing; embodying; identifying; pertaining to; demonstrating; stating; comprising; tending to support; discredit; refute, or contradict; referring to; and in any way touching upon.

15. “Document” shall be construed broadly and include the full scope of that term contemplated in Federal Rules of Civil Procedure 26 and 34, including without limitation documents and electronically stored information. If a draft document has been prepared in multiple copies that are not identical, or if the original identical copies are no longer identical due to subsequent modification, each non-identical document is a separate Document.

16. “Thing” shall be construed broadly and include the full scope of that term contemplated in Federal Rules of Civil Procedure 26 and 34.

17. “Communication” means contact, oral or written, including electronic, whereby information of any nature is transmitted or transferred, including without limitation, a Person seeing or hearing information or by any means and any Document memorializing or referring to the contact.

18. The terms “and” and “or” shall be construed conjunctively or disjunctively to bring within the scope of a request any information that might otherwise be construed to be outside its scope.

19. The terms “include” and “including” shall be construed to include without limitation and including without limitation, so as to give the broadest possible meaning to Definitions, Instructions, and requests.

INSTRUCTIONS

1. These requests shall apply to all Documents and Things in your possession, custody, or control at the present time, or coming into your possession, custody, or control during the pendency of the Present Litigation. If you know of the existence, past or present, of Documents and Things requested below, but are unable to produce such Documents or Things because they are not presently in your possession, custody, or control (whether due to their destruction, loss, or otherwise), you shall so state and shall identify such Documents and Things, and the Person who had possession, custody, or control of such Documents and Things. “Documents and Things in your possession, custody, or control” shall include Documents and Things in the possession, custody, or control of a third party over which you have control.

2. In the event a Document or Thing is withheld or redacted on a claim of attorney-client privilege or work-product immunity, you shall provide a detailed privilege log that describes the privilege being claimed and the information withheld in a manner sufficient to disclose facts upon which you rely in asserting your claim, and to permit your claim of attorney-client privilege and or work-product to be assessed by the parties issuing this subpoena.

3. If you object to a part of a request, you shall state the basis for your objections and respond to all parts of the request not subject to your objections.

4. In the event that you object to a request or a term used therein as vague and/or ambiguous, identify the particular words, terms, or phrases that are asserted to make such request vague and/or ambiguous and specify the meaning you actually attributed to such words for purposes of your response.

5. These requests are not limited as to time period unless explicitly stated.

6. The singular shall always include the plural and the present shall also include the past tense. Any pronoun shall mean the masculine, feminine and/or gender neutral as in each case is most appropriate.

REQUESTS FOR PRODUCTION

1. All Documents and Things provided to BBVA to substantiate the identity of the owner of the Subject Account.

2. Documents sufficient to identify all Persons or Entities who opened, controlled, and/or have ever had access to the Subject Account.

3. Documents and Things relating to Communications with any person purporting to represent or work for Chevron related to the Subject Account.

4. All Documents and Things obtained from Defendants or third parties related to the Subject Account.

5. All signature cards for the Subject Account.

6. Copies of all cancelled checks for the Subject Account.

7. Copies of all incoming or outgoing wires from the Subject Account.

8. All Documents and Things constituting bank statements or reports of activity occurring with the Subject Account, including information sufficient to identify the balance of the Subject Account for the last twelve months, including today.

9. Documents sufficient to identify any bank accounts of any type opened at BBVA by Defendants using the name "Chevron."

10. Documents sufficient to identify any bank accounts of any type in which Defendants had control, and/or have ever had access, and that were opened at BBVA by any individual or entity using the name "Chevron."

11. Any Communications between BBVA or Ares and any of the Defendants or Avalant.

12. Documents, Things, or Communications relating to any representations made by BBVA or Ares to any Person or Entity regarding any of the Defendants or Avalant at any time prior to today.

March 16, 2018

By: /s/ Abby L. Parsons

R. Bruce Hurley
Attorney In Charge
Texas Bar No. 10311400
John H. Barr, Jr.
Texas Bar No. 00783605
Christie Cardon
Texas Bar No. 24036326
Abby L. Parsons
Texas Bar No. 24094303
KING & SPALDING LLP
1100 Louisiana St., Ste. 4000
Houston, Texas 77002
(Tel): 713-751-3200
(Fax): 713-751-3900
bhurley@kslaw.com
jbarr@kslaw.com
ccardon@kslaw.com
aparsons@kslaw.com

Of Counsel:

Kathleen E. McCarthy
KING & SPALDING LLP
1185 Avenue of the Americas
New York, New York 10036
Tel: (212) 556-2345
Fax: (212) 556-2222
kmccarthy@kslaw.com

Attorneys for Plaintiffs
Chevron Intellectual Property LLC
Chevron U.S.A. Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2018, a true and correct copy of the Subpoena and Schedule A for BBVA Compass Bank was served on counsel for Defendants by electronic mail.

Dwight E. Jefferson
Coats Rose, P.C.
9 Greenway Plaza, Suite 1100
Houston, TX 77046
djefferson@coatsrose.com

Marcellous S. McZeal
Grealish & McZeal, P.C.
700 Louisiana, 48th Floor
Houston, TX 77002
mmczeal@grealishmczeal.com

I further hereby certify that on March 16, 2018, a true and correct copy of the Subpoena and Schedule A for BBVA Compass Bank was served on Mr. Scott Montana, as non-party signatory to the Subject Account, pursuant to Tex. Fin. Code §§ 59.006(b)(3) and 59.006(c)(2) by electronic mail.

/s/ Abby L. Parsons