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NO FEE
Government Code Section 6103

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
01/26/2015 at 02:48:00 PM
Clerk of the Superior Court
By Norri Lau, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

12 **HORIZONTAL DEVELOPMENT LLC, A**
CALIFORNIA LIMITED LIABILITY COMPANY;
13 **ARMSTRONG PETROLEUM**
CORPORATION, A CALIFORNIA
14 **CORPORATION; WEST NEWPORT OIL**
COMPANY, A CALIFORNIA CORPORATION,

Plaintiff,

v.

18 **CALIFORNIA COASTAL COMMISSION,**
A CALIFORNIA PUBLIC AGENCY, AND DOES
19 **1-25, INCLUSIVE,**

Defendant.

Case No. 30-2014-00739490-CU-MC-CJC

CALIFORNIA COASTAL
COMMISSION'S ANSWER TO
COMPLAINT FOR DECLARATORY
RELIEF

Judge: Hon. Andrew P. Banks
Dept.: C-11

Trial Date: August 10, 2015
Action Filed: August 12, 2014

22 Defendant California Coastal Commission (Commission) answers plaintiffs' unverified
23 Complaint for Declaratory Relief as follows:

24 **GENERAL DENIAL**

25 Pursuant to Code of Civil Procedure section 431.30, subdivision (d), the Commission
26 denies each and every material allegation in the Complaint.

1 **AFFIRMATIVE DEFENSES**

2 The Commission asserts the affirmative defenses below. By asserting these defenses, the
3 Commission does not allege or admit that it has the burden of proof or the burden of persuasion
4 as to any of these defenses. The Commission reserves the right to assert additional or different
5 defenses as facts become available through discovery or the Commission's investigation.

6 **First Affirmative Defense**

7 (Failure to State a Claim)

8 Plaintiffs fail to allege facts sufficient to support any claim for relief, including by failing
9 to allege a justiciable controversy.

10 **Second Affirmative Defense**

11 (Improper Basis for Declaratory Relief)

12 Plaintiffs' Complaint and its cause of action for declaratory relief are barred to the extent
13 that plaintiffs seek an advisory opinion from the Court about hypothetical facts.

14 **Third Affirmative Defense**

15 (Lawful Exercise of Discretion)

16 The Commission properly exercised its discretion in the events pled in plaintiffs'
17 Complaint.

18 **Fourth Affirmative Defense**

19 (Failure to Exhaust Administrative Remedies)

20 Plaintiffs failed to exhaust all available administrative remedies and based upon that failure
21 this Court lacks jurisdiction to consider their claims.

22 **Fifth Affirmative Defense**

23 (Primary Jurisdiction)

24 The primary jurisdiction doctrine bars, and/or requires suspension of the adjudication of,
25 plaintiffs' Complaint and its cause of action for declaratory relief.

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3. For all other further relief this Court deems just and proper.

Dated: January 26, 2015

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
CHRISTINA BULL ARNDT
Supervising Deputy Attorney General



ANDREW M. VOGEL
Deputy Attorney General
Attorneys for Defendant
California Coastal Commission

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Horizontal Development LLC, et al. v. California Coastal Commission**

No.: **30-2014-00739490-CU-MC-CJC**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.


On **January 26, 2015**, I served the attached [**CALIFORNIA COASTAL COMMISSION'S ANSWER TO COMPLAINT FOR DECLARATORY RELIEF**] by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows: 300 South Spring Street.

Tim Paone, Esq.
COX, CASTLE & NICHOLSON, LLP
3121 Michelson Drive, Ste. 200
Irvine, CA 92612-5678
*Attorneys for Plaintiff, Horizontal
Development LLC, et al.*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **January 26, 2015**, at Los Angeles, California.

Teresa De Paz

Declarant



Signature