

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

**MINUTE ORDER**

DATE: 01/16/2015

TIME: 01:30:00 PM

DEPT: C11

JUDICIAL OFFICER PRESIDING: Andrew P. Banks

CLERK: Myra Nakata

REPORTER/ERM: Michael J. Chiaravalloti CSR# 6179

BAILIFF/COURT ATTENDANT: Kathy Arbarez

CASE NO: **30-2014-00739490-CU-MC-CJC** CASE INIT.DATE: 08/12/2014

CASE TITLE: **Horizontal Development LLC vs. California Coastal Commission**

CASE CATEGORY: Civil - Unlimited      CASE TYPE: Misc Complaints - Other

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EVENT ID/DOCUMENT ID: 72081244

**EVENT TYPE:** Demurrer to Complaint

MOVING PARTY: California Coastal Commission

CAUSAL DOCUMENT/DATE FILED: Demurrer to Complaint, 10/03/2014

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**APPEARANCES**

Tim Paone, from COX CASTLE & NICHOLSON LLP, present for Plaintiff(s).

Andrew M. Vogel, from ATTORNEY GENERAL - LOS ANGELES, present for Defendant(s).

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Hearing held.

Court having considered argument from counsel both written and oral now rules as follows:

Defendant California Coastal Commission's demurrer to complaint is overruled. All parties' requests for judicial notice are granted. The allegations of the complaint and the judicially noticed documents show plaintiffs Horizontal Development LLC, Armstrong Petroleum Corporation and West Newport Oil Company had no effective administrative remedy to exhaust before bringing this action. The exhaustion requirement is not applicable where an effective administrative remedy is wholly lacking. (*SJCBC, LLC v. Horwedel* (2011) 201 Cal.App.4th 339, 346-350 [an administrative remedy available only to someone differently situated than the prospective plaintiff constitutes an illusory remedy]; *Eye Dog Foundation v. State Bd. of Guide Dogs for Blind* (1967) 67 Ca.2d 536, 543-544.)

Defendant is to answer within 10 days.

Parties waive notice.