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FILED  
8/12/2020 10:29 AM**

SAN LUIS OBISPO SUPERIOR COURT  
BY Carol L. McGuirk  
Carol L. McGuirk, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN LUIS OBISPO**

SHEAR DEVELOPMENT COMPANY, LLC,

Petitioner and Plaintiff

v.

CALIFORNIA COASTAL COMMISSION, an  
agency of the State of California, and DOES 1  
through 20, inclusive,

Respondents and Defendants.

Case No.: 20CV-0431

**VERIFIED PETITION FOR WRIT OF  
ADMINISTRATIVE MANDATE (C.C.P. §  
1094.5) AND COMPLAINT FOR  
INVERSE CONDEMNATION**

1 By this verified petition, Petitioner and Plaintiff SHEAR DEVELOPMENT COMPANY, LLC  
2 alleges as follows:

3 **PARTIES**

4 1. Petitioner and Plaintiff SHEAR DEVELOPMENT COMPANY, LLC (“Shear”) is a  
5 limited liability company incorporated in the State of California. It has applied for a permit to construct  
6 single-family homes on three vacant lots in the Los Osos area of San Luis Obispo County, located at  
7 282 Mar Vista Drive, 294 Mar Vista Drive, and 284 Highland Drive. The County of San Luis Obispo  
8 granted the permit, but Respondent California Coastal Commission unlawfully took jurisdiction over  
9 the County’s approval, then denied Shear a permit to build. Shear challenges the Commission’s  
10 unlawful actions in this case.

11 2. Respondent and Defendant CALIFORNIA COASTAL COMMISSION  
12 (“Commission”) is a state land-use agency charged with administration of the California Coastal Act  
13 of 1976. Under limited circumstances, it is empowered to review the County’s permit approvals. The  
14 Commission unlawfully accepted an appeal from the County’s approval of Shear’s project, then  
15 unlawfully denied Shear a permit to build that project.

16 3. Shear is unaware of the true names and identities of those persons named herein as  
17 DOES 1 through 20, inclusive, and upon ascertaining said true names and identities, will amend this  
18 Petition accordingly.

19 **JURISDICTION AND VENUE**

20 4. This Court has jurisdiction over this action pursuant to Code of Civil Procedure §§  
21 1094.5, and Public Resources Code § 30801.

22 5. Venue is proper in this Court, because the property that is the subject of this lawsuit is  
23 located in the County of San Luis Obispo.

24 **LEGAL BACKGROUND AND FACTUAL ALLEGATIONS**

25 ***Legal Background—the Relationship Between the Commission and Local Governments***

26 6. Like all administrative agencies, the Commission has no inherent powers. It possesses  
27 only those powers that have been granted to it by the California Constitution or by the California  
28 Coastal Act (Pub. Res. Code §§ 30000 *et seq.*) The fact that an agency has been granted *some* authority

1 to act within a given area does not mean that it enjoys plenary authority to act in that area. As a  
2 consequence, if the Commission takes action that is inconsistent with, or that is not authorized by its  
3 enabling statute (the Coastal Act), then its action is void.

4 7. Among other things, the Coastal Act requires that each local government lying, in  
5 whole or in part, within the coastal zone prepare a Local Coastal Program (LCP) for that portion of  
6 the coastal zone under the local government’s jurisdiction. (Pub. Res. Code § 30500(a).) An LCP  
7 consists of two principal components: a Land Use Plan (LUP) and “implementing actions,” such as  
8 zoning ordinances and maps. (*Id.* §§ 30108.6, § 30108.4, 30108.5.)

9 8. Under the Coastal Act, the local government is the author of its LCP. As the Act  
10 provides, “[t]he precise content of each local coastal program shall be determined **by the local**  
11 **government** . . . in full consultation with the commission and with full public participation.” (*Id.* §  
12 30500(c) (emphasis added).) “[T]he Commission in approving or disapproving an LCP does not create  
13 or originate any land use rules and regulations. It can approve or disapprove but it cannot itself draft  
14 any part of the coastal plan.” (*Yost v. Thomas* (1984) 36 Cal.3d 561, 572.)

15 9. Once drafted, the LCP is submitted to the Commission for certification. (Pub. Res.  
16 Code § 30510.) The Commission reviews both the LUP and zoning ordinances and maps under a very  
17 narrow standard. (*Id.* § 30512(a).) If the Commission finds that the LUP meets the requirements of  
18 chapter 3 of the Coastal Act, then it must certify it. (*Id.* § 30512(c).) The Commission’s review of the  
19 LUP is limited to the Commission’s “administrative determination that the land use plan . . . does, or  
20 does not, conform with the requirements of Chapter 3.” (*Id.* § 30512.2(a).) “In making this review, the  
21 commission is not authorized . . . to diminish or abridge the authority of a local government to adopt  
22 and establish, by ordinance, the precise content of its land use plan.” (*Id.*)

23 10. Similarly, the Commission may reject the local government’s implementing actions—  
24 i.e., its zoning ordinances and maps—only “on the grounds that they do not conform with, or are  
25 inadequate to carry out, the provisions of the certified land use plan.” (*Id.* § 30513.)

26 11. Once the LCP is certified, “the Commission’s role in the permit process for coastal  
27 development [is] to hear appeals from decisions by [the local government] to grant or deny permits.”  
28 (*Security Nat’l Guar. v. Cal. Coastal Comm’n* (“SNG”) (2008) 159 Cal.App.4th 402, 421.) With a

1 certified LCP, the local government has original jurisdiction to issue Coastal Development Permits  
2 (CDPs) for projects within its jurisdiction, and the Commission has only “limited” authority to hear  
3 appeals from those locally approved projects. (*Id.* (“The Commission’s jurisdiction in such appeals,  
4 however, is limited.”).)

5 12. First, the locally approved project must be the *kind* of project that is appealable, given  
6 the location or special characteristics of the project site. (*See, e.g.*, Pub. Res. Code § 30603(a).) Second,  
7 the Commission may not take jurisdiction even over an appealable project unless there is a “substantial  
8 issue” as to the project’s conformance to the certified LCP and the Coastal Act’s public-access  
9 policies. (Pub. Res. Code §§ 30603(b)(1), 30625(b)(2).) These limits on the Commission’s appeal  
10 jurisdiction over locally approved projects are consistent with the legislative policy enshrined in the  
11 Coastal Act of “rely[ing] heavily on local government and local land use planning procedures and  
12 enforcement” to “achieve maximum responsiveness to local conditions, accountability, and public  
13 accessibility.” (*Id.* § 30004(a).)

14 13. If, after LCP certification, the Coastal Commission disagrees with an aspect of the LCP,  
15 or how it is being implemented, it has no power to unilaterally amend or delete the offending provision,  
16 or require the local government to do so. (*SNG*, 159 Cal.App.4th at 421 (The Coastal Act “gives the  
17 Commission no power either to make the amendments itself or to compel the local government to  
18 make them.”).) Consistent with the statutory mandate that the local government is the author of its  
19 LCP, only the local government can modify it. (Pub. Res. Code § 30514(a).)

20 14. If the Commission finds that a certified LCP is not being carried out in conformity with  
21 the Coastal Act, it may only recommend corrective actions to the local government, including  
22 recommended amendments to the certified LCP. (Pub. Res. Code § 30519.5(a).) But the local  
23 government has no obligation to implement any of the Commission’s recommendations and may reject  
24 them. (*Id.* § 30519.5(b).) In response, the Commission may, “where appropriate, report to the  
25 Legislature and recommend legislative action necessary to assure effective implementation of the  
26 relevant policy or policies of [the Coastal Act].” (*Id.*) Consequently, it is only the *Legislature*, not the  
27 Commission, that can require changes to a certified LCP. Thus, the Commission’s role in this  
28 amendment process is very circumscribed.

***Legal Background—the County’s LCP***

1  
2           15.     San Luis Obispo County’s LCP was certified by the Coastal Commission in 1986 and  
3 adopted by the County in 1988. Since 1988, the County has been the day-to-day administrator and  
4 enforcer of its certified LCP, with original jurisdiction over projects within its boundaries and limited  
5 appeal “oversight” by the Coastal Commission.

6           16.     Indeed, under the certified LCP, only a small subset of County-approved projects is  
7 appealable to the Coastal Commission, based on the project’s location or the project site’s special  
8 characteristics. (San Luis Obispo County Coastal Zone Land Use Ordinance (“CZLUO”) §  
9 23.01.043(c).)

10          17.     Relevant to this case, a County-approved project may be appealed to the Coastal  
11 Commission if it is located in an area “mapped and designated as Environmentally Sensitive Habitats  
12 (ESHA) in the Local Coastal Plan.” (CZLUO § 23.01.043(3)(i).) The LCP defines “ESHA” as a “type  
13 of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially  
14 valuable because of their special nature or role in an ecosystem and which could easily [be] disturbed  
15 or degraded by human activities and development,” and includes “wetlands, coastal streams and  
16 riparian vegetation, [and] terrestrial and marine habitats.” (*Id.* § 23.11.030 (Definitions).)

17          18.     “*Mapped* ESHA” is ESHA that is “mapped as Land Use Element combining  
18 designations.” In other words, Mapped ESHA exists only on official “combining designations” maps  
19 that the County has officially adopted as part of its Land Use Element and that the Commission has  
20 duly certified. (*Id.* § 23.11.030 (Definitions).) The LCP acknowledges the possibility that a proposed  
21 project site may have “Unmapped ESHA.” But “Unmapped ESHA” is specifically defined in the LCP  
22 to mean ESHA that is identified “by the County at or before the time” that it accepts a specific permit  
23 application is complete. (*Id.*) Under the LCP, the Commission’s appeal jurisdiction “[d]oes not include  
24 resource areas determined by the County to be Unmapped ESHA.” (*Id.* § 23.01.043(3)(i).) Thus,  
25 projects in Unmapped ESHA are not appealable to the Coastal Commission.

26          19.     Also relevant to this case, a County-approved project may be appealed to the Coastal  
27 Commission if it is “not listed in Coastal Table O, Part I of the Land Use Element as a Principal  
28 Permitted (P) Use.” (CZLUO § 23.01.043(c)(4).) The LCP defines a “Principal Permitted Use” as “a

1 use to be encouraged and that has priority over non-principally permitted uses.” (San Luis Obispo  
2 County Coastal Zone Framework for Planning (Land Use Element—Part 1) at 6-25.)

3 20. Coastal Table O lists fourteen (14) land-use zones, ranging from agriculture to  
4 residential to open space. (*Id.* at 6-27.) For each zone, the table identifies the obvious Principal  
5 Permitted Use—for example, “Single Family Dwelling” in the “Residential Single-Family” zone. But  
6 each zone also identifies “Coastal Accessways” as a Principal Permitted Use, presumably because the  
7 County and Commission wanted to make it easy for property owners to apply and obtain approval for  
8 the development of coastal accessways across their properties. As a consequence, *every zone* in the  
9 County has multiple Principal Permitted Uses.

10 21. Since the LCP’s adoption, the County consistently has interpreted and applied the LCP  
11 to deny the appealability of a County-approved project that conforms to one of the Principal Permitted  
12 Uses for the project site’s zone. Any other interpretation and application of the LCP’s “Principal  
13 Permitted Use” provision would mean that *all County-approved projects* are appealable to the Coastal  
14 Commission, in flagrant violation of the letter and spirit of the Coastal Act, which envisions strictly  
15 limiting the Commission’s appeal jurisdiction once the County has a certified LCP.

16 22. As alluded to above, when a County-approved CDP is appealed to the Coastal  
17 Commission, the Commission must first decide whether the approved project is the kind of project  
18 that is appealable to the Commission under the CZLUO, because of the project site’s location or  
19 characteristics. (CZLUO § 23.01.043(c).) If the project is the kind of project that is appealable under  
20 CZLUO section 23.01.043(c), the Commission must then decide whether the County approval raises  
21 a “substantial issue” as to the project’s conformity to the LCP or the Act’s public-access policies.  
22 (CZLUO § 23.01.043(d) (“[T]he grounds for appeal . . . shall be limited to an allegation that the  
23 development does not conform to the standards set forth in the certified Local Coastal Program or the  
24 public access policies set forth in the California Coastal Act.”).)

25 23. If the project is appealable and raises a “substantial issue” of conformity to the LCP or  
26 public-access policies of the Coastal Act, then the Commission takes jurisdiction. If the project is non-  
27 appealable or does not raise a “substantial issue,” then the Commission must dismiss the appeal and  
28 allow the County-approved CDP to stand.

***Factual Background***

1  
2           24.     Shear acquired eight (8) lots in Tract 2161, Los Osos, in 2003. The lots lie in the  
3 Residential Single-Family zone, in which the Principal Permitted Use is “Single-Family Dwellings.”  
4 Most of the surrounding area is built out with single-family homes.

5           25.     Shortly after Shear acquired the lots, and as required by law for recording of the tract  
6 map, Shear substantially developed the eight-lot subdivision. Shear substantially graded the entire  
7 subdivision, and installed roads, sidewalks, gutters, storm drainage, underground utilities (e.g., water  
8 and sewer mains, sewer laterals, gas and electrical infrastructure, etc.), retaining walls, and  
9 landscaping. Further, Shear installed certified building pads for each lot. By 2004, all eight lots were  
10 ready for the construction of single-family homes.

11           26.     In 2004, Shear applied for, and the County approved, a Coastal Development Permit  
12 (CDP) to build homes on the eight lots in two phases. In Phase 1, prior to completion of the Los Osos  
13 community sewer, Shear would be able to construct four homes using an onsite septic system. In Phase  
14 2, following completion of the community sewer, Shear would be able to construct the remaining  
15 homes.

16           27.     The County’s CDP was appealed to the Commission. In October 2004, the Commission  
17 approved a CDP for construction of single-family homes only on the first four lots (Phase 1), requiring  
18 Shear to return to the County for a new CDP to build homes on the remaining lots (Phase 2) once a  
19 community sewer was built.

20           28.     Notably, in its 2004 permit decision approving Phase 1, the Commission specifically  
21 found that the eight-lot subdivision had been “substantially developed,” because Shear had already  
22 graded the entire subdivision, and installed roads, sidewalks, gutters, storm drainage, underground  
23 utilities (e.g., water and sewer mains, sewer laterals, gas and electrical infrastructure, etc.), retaining  
24 walls, and landscaping.

25           29.     Pursuant to the 2004 CDP issued by the Coastal Commission for Phase 1, Shear built  
26 single-family homes on the the first four lots of the subdivision. Shear patiently awaited the  
27 construction of the community sewer so that it could proceed with residential development of the  
28 remaining lots.

1           30.     By 2007, Shear installed water meters on the other four vacant lots, including the three  
2 lots that are the subject of this suit. The 5/8” water meters have served the lots with an unrestricted  
3 supply of water since their installation. Indeed, consistent with Shear’s expectation of being able to  
4 residentially develop the remaining lots within a reasonable period of time, those lots have seen active  
5 water use for landscaping since the water meters’ installation. There are no legal or *de facto* restrictions  
6 or limitations on the amount of water that the vacant lots may access. Further, if single-family homes  
7 existed on the lots today, there would be nothing to prevent or limit the residents’ access to all the  
8 water needed to serve them.

9           31.     In 2009, the County approved a CDP for a community sewer known as the Los Osos  
10 Wastewater Project (LOWWP). The sewer project was appealed to the Coastal Commission. In 2010,  
11 the Commission approved a CDP for the LOWWP with a number of special conditions, including  
12 Special Condition 6, which states: “Wastewater service to **undeveloped properties** within the service  
13 area shall be prohibited unless and until the Estero Area Plan is amended to identify appropriate and  
14 sustainable buildout limits, and any appropriate mechanisms to stay within such limits, based on  
15 conclusive evidence indicating that adequate water is available to support development of such  
16 properties without adverse impacts to ground and surface waters, including wetlands and all related  
17 habitats” (emphasis added). Special Condition 6 does not apply to developed properties, including  
18 Shear’s “substantially developed” lots that are the subject of this suit.

19           32.     By 2016, the LOWWP was completed. Thus, as directed by the Commission in 2004,  
20 Shear applied in 2017 to the County for a CDP to build homes on Shear’s remaining lots. Following  
21 discussions with County staff, Shear reduced the number of lots proposed for residential construction  
22 to three: Lot 1 (295 Mar Vista Drive), Lot 3 (282 Mar Vista Drive), and Lot 7 (284 Highland Drive).

23           33.     In July 2019, the County approved a CDP for construction of single-family residences  
24 on Lots 1, 3, and 7. In August 2019, two Coastal Commissioners appealed the County’s approval to  
25 the Commission.

26           34.     At a hearing on October 17, 2019, and over Shear’s written objections, the Coastal  
27 Commission took appeal jurisdiction over the project. First, the Commission found that the County-  
28 approved project was appealable, because the project purportedly was located in Mapped ESHA, and

1 because single-family homes allegedly were not the Principal Permitted Use for the lots under the  
2 LCP. Second, the Commission found that “substantial issue” existed with respect to the project’s  
3 conformity to the LCP’s provisions requiring adequate public services to a project (water and  
4 wastewater), and the LCP’s ESHA provisions.

5 35. The Commission set a *de novo* hearing on the project for February 12, 2020. In advance  
6 of the hearing, the Commission’s staff issued a staff report recommending that the Commission *deny*  
7 Shear a CDP for its project. Shear responded to the flawed staff report with extensive written  
8 comments and evidence. On the day set for the hearing, and at the last minute, the Commission decided  
9 to continue the project to an unspecified future date, allegedly to give staff an opportunity to respond  
10 to Shear’s extensive written comments and evidence.

11 36. Finally, Commission staff set the project for a hearing on July 9, 2020. Prior to the  
12 hearing, staff again published a report recommending project denial. In response, Shear again  
13 submitted extensive comments and evidence in opposition to the staff report. Shear urged the  
14 Commission to either (1) dismiss the appeal as improvidently granted or (2) grant Shear a CDP, as  
15 approved by the County.

16 37. The day of the July 9, 2020, hearing, Shear made a lengthy presentation warning the  
17 Commission that it had accepted the appeal based on its staff’s mistaken assumptions about and  
18 mischaracterizations of the project, its location, and applicable LCP provisions. Shear also warned  
19 the Commission that denial of Shear’s right to make economically viable or beneficial use of its lots  
20 would result in an unlawful taking of its property. At the close of the July 9 hearing, the Commission  
21 voted to adopt staff’s recommendation and deny the project. In so doing, the Commission adopted all  
22 of its staff’s findings for denial of the project.

23 38. The Commission’s decision denying Shear a CDP is final, and Shear has no further  
24 administrative remedies to exhaust.

25 **FIRST CAUSE OF ACTION**

26 **FOR WRIT OF ADMINISTRATIVE MANDATE**

27 39. Shear realleges and incorporates by reference the preceding paragraphs in their entirety.

28 40. Section 30801 of the Public Resources Code confers on a person aggrieved by a

1 Commission decision, like Shear, the right to judicial review of said decision pursuant to section  
2 1094.5 of the Code of Civil Procedure.

3 41. Section 1094.5 authorizes a writ for the purpose of inquiring into the validity of any  
4 final administrative order or decision made as the result of a proceeding in which by law a hearing is  
5 required to be given, evidence is required to be taken, and discretion is vested in the agency.

6 42. The inquiry in such a case extends to the questions whether the agency has proceeded  
7 without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any  
8 prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded  
9 in the manner required by law, the order or decision is not supported by the findings, or the findings  
10 are not supported by the evidence.

11 43. In denying Shear a CDP, the Commission proceeded without or in excess of jurisdiction  
12 as follows:

13 a. The Project Was Not the Kind of Project That Is Appealable to the Commission:  
14 The Commission had no appellate jurisdiction over the County-approved CDP, authorizing Shear to  
15 build single-family homes on Lots 1, 3, and 7. The law, findings, and evidence in the record do not  
16 support the Commission's erroneous conclusions that (1) the project site has Mapped ESHA and (2)  
17 single-family homes are not the Principal Permitted Use for Lots 1, 3, and 7.

18 b. No Valid Grounds for an Appeal Existed: The Commission had no appellate  
19 jurisdiction over the County-approved CDP, because no "substantial issue" existed with respect to the  
20 project's conformity to (1) the LCP's ESHA policies (because the project does not implicate, let alone  
21 violate, any of those policies); and (2) the LCP's requirement that adequate water and wastewater  
22 capacity exists to serve the project (because the project easily satisfies that requirement).

23 44. In denying Shear a CDP for its project, the Commission prejudicially abused its  
24 discretion as follows:

25 a. The Commission's finding that the project violates the LCP's ESHA provisions  
26 finds no support in the law, the facts, or substantial evidence in the record. The law and record establish  
27 beyond dispute that, among other things, Lots 1, 3, and 7 are not in or around ESHA, and do not serve  
28 as critical habitat for any legally protected species, including the Morro Shoulderband Snail.



1 property for a public use without just compensation. (U.S. Const. amends. X, XIV.)

2 50. A categorical taking occurs when the government deprives an owner of all  
3 “developmental or economically beneficial” or “viable” use of his property. (*Lucas v. South Carolina*  
4 *Coastal Council* (1992) 505 U.S. 1003, 1018, 1025 n.12.)

5 51. Even where government action does not effect a categorical taking under *Lucas*, the  
6 action can still effect a taking based on the weighing of three factors: (1) the economic impact of the  
7 action; (2) the extent to which the action has interfered with distinct investment-backed expectations;  
8 and (3) the character of the government action. (*Penn Central Transp. Co. v. New York City* (1978)  
9 438 U.S. 104, 124.)

10 52. A taking may exist, whether temporary or permanent. (*Ark. Game & Fish Comm’n v.*  
11 *United States* (2012) 568 U.S. 23, 32.)

12 53. The Commission’s July 9, 2020, decision denying Shear a CDP to build on its lots  
13 effects an unconstitutional taking under the Fifth Amendment to the United States Constitution, under  
14 either *Lucas* or *Penn Central*.

15 54. The Commission has designated Lots 1, 3, and 7 as unbuildable ESHA and unbuildable  
16 critical habitat for the Morro Shoulderband Snail (MSS). It also has declared that Special Condition 6  
17 of the County’s CDP for the LOWWP indefinitely precludes construction of homes on those lots.  
18 These environmental constraints preclude all economically viable and beneficial use of Lots 1, 3, and  
19 7, and therefore effect a taking of Shear’s property under *Lucas*. In the alternative, the *Penn Central*  
20 factors described above weigh in favor of finding that the Commission’s decision effects a taking.

21 55. The Commission’s permit decision with respect to Lots 1, 3, and 7 is final and ripe for  
22 review. The Commission’s July 9, 2020, decision represents the **second** time the Commission has  
23 denied Shear the right to build homes on Lots 1, 3, and 7. The Commission first denied Shear a CDP  
24 in 2004, based on the fact that a community sewer had not been built to serve residences on Lots 1, 3,  
25 and 7. With the completion of the community sewer, the Commission has found new excuses to deny  
26 Shear a CDP to build on its lots, now declaring that the subject lots are unbuildable ESHA and critical  
27 habitat for the MSS, and that Special Condition 6 indefinitely precludes construction.

28 56. Given the Commission’s shifting goal posts, it is clear that the Commission will allow

1 no construction of any kind on Lots 1, 3, and 7 for an indefinite period of time, if ever. The  
2 Commission's permit denial therefore is final and ripe for review under the Takings Clause.

3 57. Shear is entitled to attorneys' fees and costs under Government Code 800, Code of  
4 Civil Procedure section 1021.5, and any other applicable fee-shifting statute or rule.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Shear requests relief as follows:

7 1. A writ of mandate ordering Respondent California Coastal Commission to:

8 a. Vacate and set aside its October 18, 2019, decision accepting jurisdiction over  
9 the County-approved CDP, which authorizes Shear to build homes on Lots 1, 3, and 7, and dismiss  
10 the appeal from, and thereby reinstate, said County-approved CDP; or

11 b. In the alternative, vacate and set aside its July 9, 2020, decision denying Shear  
12 a CDP for construction of homes on Lots 1, 3, and 7, and grant a CDP as approved by the County.

13 2. A declaration that the Commission's July 9, 2020, decision effects an unconstitutional  
14 taking of Shear's lots, and damages, including without limitation just compensation, attorneys' fees  
15 and costs, for the taking of Shear's lots;

16 3. Reasonable attorneys' fees and costs under Government Code section 800, Code of  
17 Civil Procedure section 1021.5, and/or any other applicable fee-shifting statute or rule; and

18 4. Such other and further relief as the Court may deem appropriate.

19 DATED: August 12, 2020

**FISHERBROYLES LLP**

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21 \_\_\_\_\_  
22 PAUL BEARD II

23 Attorney for SHEAR DEVELOPMENT COMPANY, LLC  
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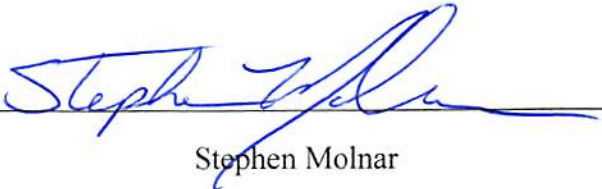
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**VERIFICATION**

I am a Managing Member of Petitioner and Plaintiff SHEAR DEVELOPMENT COMPANY, LLC, and I am authorized to and do make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INVERSE CONDEMNATION, and know its contents. The factual matters stated therein are true of my own knowledge, except as to those factual matters that are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 6, 2020, at San Luis Obispo County, California.

  
\_\_\_\_\_  
Stephen Molnar