

1 BRIAN E. WASHINGTON (SBN 146807)

bwashington@marincounty.org

2 BRIAN C. CASE (SBN 254218)

bcase@marincounty.org

3 **OFFICE OF THE COUNTY COUNSEL OF MARIN**

4 3501 Civic Center Drive Suite 275

San Rafael, CA 94903

5 Tel: (415) 473-6117

6 Fax: (415) 473-3796

7 VICTOR M. SHER (SBN 96197)

vic@sheredling.com

8 MATTHEW K. EDLING (SBN 250940)

matt@sheredling.com

9 MARTIN D. QUIÑONES (SBN 293318)

marty@sheredling.com

10 KATIE H. JONES (SBN 300913)

katie@sheredling.com

11 **SHER EDLING LLP**

12 100 Montgomery Street, Ste. 1410

San Francisco, CA 94104

13 Tel: (628) 231-2500

14 Fax: (628) 231-2929

15 *Attorneys for Plaintiff*

The County of Marin, Individually

16 *and on behalf of the People of the State of California*

17
18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 THE COUNTY OF MARIN, individually and
22 on behalf of THE PEOPLE OF THE STATE
23 OF CALIFORNIA

Plaintiff,

24 v.

25 CHEVRON CORP., et al.,

26 Defendants.

Case No.: 3:17-cv-04935-VC

**NOTICE OF DISMISSAL OF
DEFENDANT ARCH COAL, INC.
WITH PREJUDICE**

1 PLEASE TAKE NOTICE that Plaintiff the County of Marin, individually and on behalf of
2 the People of the State of California, for the reasons stated below, for the reasons stated below,
3 asks this Court to dismiss all claims in the above-captioned matter with prejudice as to Defendant
4 Arch Coal, Inc. (“Arch”) only.

5 Plaintiff was ordered by the United States Bankruptcy Court for the Eastern District of
6 Missouri to dismiss its claims in the above-captioned matter as to defendant Peabody Energy Corp.
7 with prejudice. *See In Re Peabody Energy Corp.*, No. 16-42529-399, Dkt.3514 (Bankr. E.D. Mo.,
8 Oct. 24, 2017) (“Peabody Bankruptcy Order”). Plaintiff agreed with Arch that the result of any
9 motion to stay the Peabody Bankruptcy Order and/or appeal from it would govern and supersede
10 a similar request for relief sought by Arch in its own bankruptcy proceeding in the Eastern District
11 of Missouri. Upon stipulation, Arch agreed to withdraw its then-pending motion to the bankruptcy
12 court seeking to enjoin Plaintiff from pursuing its claims against Arch, and Plaintiff agreed that
13 upon entry of an order denying Plaintiff’s motion to stay the Peabody Bankruptcy Order pending
14 appeal, Plaintiff would “affirmatively dismiss with prejudice as to the [Arch] any counts ...
15 included in Plaintiffs’ appeal of the [Peabody Bankruptcy Order].” *See* Stipulation and Order, *In*
16 *re: Arch Coal, Inc.*, No. 16-40120, Dkt. 1615 (Bankr. E.D. Mo., Nov. 21, 2017).

17 The United States Court of Appeals for the Eighth Circuit affirmed the Peabody
18 Bankruptcy Order and denied Plaintiff’s motion for a stay pending appeal on May 6, 2020. *See In*
19 *re Peabody Energy Corp.*, 958 F.3d 717 (8th Cir. 2020). The Court of Appeals denied Plaintiff’s
20 motion to stay the mandate on May 27, 2020, and the formal mandate issued that day. *See In re*
21 *Peabody Energy Corp.*, No. 18-3242, Entry ID Nos. 4916971 & 4916981 (8th Cir. May 27, 2020).
22 Associate Justice Gorsuch of the United States Supreme Court, sitting as Circuit Justice for the
23 Eighth Circuit, denied Plaintiff’s application to recall the mandate and stay the Peabody
24 Bankruptcy Order pending Plaintiff’s anticipated petition for certiorari on June 24, 2020. *See San*
25 *Mateo Cty. et al. v. Peabody Energy Corp.*, No. 19A1051 (U.S. June 24, 2020). The Eighth
26 Circuit’s mandate affirming the Peabody Bankruptcy Order and denying the motion to stay
27 therefore stands. Plaintiff filed a Notice of Dismissal asking this Court to dismiss Peabody
28 Energy Corp. with prejudice on July 1, 2020. *See* Dkt. 242.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiff respectfully requests that the clerk of the court dismiss defendant Arch Coal, Inc. from the docket. Plaintiff reserves all rights to seek any available relief as to Arch Coal, Inc. from this Court, or from any court of the State of California after remand thereto, in the event that the Peabody Bankruptcy Order is later reversed, vacated, or modified upon further proceedings.

Dated: July 10, 2020

**OFFICE OF THE COUNTY COUNSEL
COUNTY OF MARIN**

By: /s/ Brian C. Case
BRIAN E. WASHINGTON
BRIAN C. CASE

SHER EDLING LLP

By: /s/ Matthew K. Edling
MATTHEW K. EDLING
VICTOR M. SHER
MARTIN D. QUIÑONES
KATIE H. JONES

*Attorneys for The County of Marin,
individually and on behalf of the People of the
State of California*