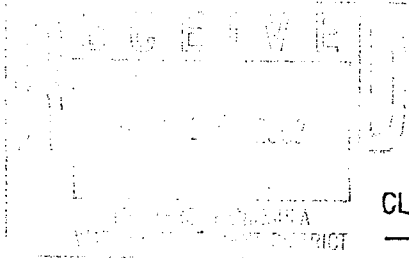


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ATTACHMENT 4

1 Scott S. Slater, Esq. (State Bar No. 117317)
 Sarah J. Knecht, Esq. (State Bar No. 138275)
 2 Russell M. McGlothlin (State Bar No. 208826)
 HATCH AND PARENT
 3 21 East Carrillo Street
 Santa Barbara, CA 93101
 4 Phone: 805-963-7000
 Fax: 805-965-4333

No Filing Fee Required
 Pursuant to Government
 Code § 6103



FILED

MAY 28 2002

SHERRIL L. PEDERSEN
 CLERK OF THE SUPERIOR COURT
 DEPT.

5 Attorneys for Petitioner
 6 CITY OF SEASIDE

7

8

SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

COUNTY OF MONTEREY

10

11 CITY OF SEASIDE, a general law city; CITY)
 OF CARMEL, a general law city; CITY OF)
 12 DEL REY OAKS, a general law city; CITY OF)
 MONTEREY, a charter city; CITY OF)
 13 PACIFIC GROVE, a charter city; CITY OF)
 SAND CITY, a charter city)

CASE NO.

M 59441

[Assigned to the Hon. ____ for All
 Proposes]

14

Petitioners,

NOTICE OF EX PARTE
 APPLICATION FOR STAY
 PURSUANT TO CODE OF CIVIL
 PROCEDURE § 1094.5 (g)

15

v.

16

MONTEREY PENINSULA WATER)
 MANAGEMENT DISTRICT; MONTEREY)
 17 PENINSULA WATER MANAGEMENT)
 DISTRICT BOARD OF DIRECTORS; and)
 18 DOES 1 through 10, inclusive,)

DATE: May 31, 2002
 TIME: 9:00 a.m.
 DEPT.: TBA

19

Respondents.

20

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22

PLEASE TAKE NOTICE that on May 31, 2002 at 9:00 a.m. in the assigned Department

23

of this Court, located at 1200 Aguajito Road, Monterey, California Petitioners shall apply *ex*

24

parte to this Court for an order staying the implementation of Ordinance No. 102 pending the

25

judgment of the court.

26

Good cause exists for the stay for the following reasons:

27

///

28

1 1. Petitioners would be irreparably injured in the event that Ordinance No. 102 is
2 implemented without CEQA compliance.

3 2. Ordinance No. 102 has the potential to cause either a direct change in the
4 environment or a reasonably foreseeable indirect physical change in the environment, and is an activity
5 directly undertaken by a public agency.

6 3. Rule 28B, which would be abolished by the implementation of Ordinance No. 102,
7 permits jurisdictions to use their water resources more efficiently by allowing the transfer of commercial
8 water credits¹ into a jurisdiction's² general water allocation.

9 4. Abolishing 28B will have the effect of preventing redevelopment and urban infill in
10 petitioners' jurisdictions and thus forcing development into the "greenfields" or preventing development
11 altogether because development which is more dense requires more water on a given piece of property than
12 development which is less dense.

13 5. Forcing development into Monterey County's "greenfields" will potentially reduce
14 agricultural land and environmentally important land, increase commuting distances, increase impervious
15 surface areas (thereby increasing storm water pollution), increase air pollution (as a result of the increased
16 traffic and travel distances) and negatively impact human health. These impacts are reasonably foreseeable
17 by looking to the State's population growth predictions, to the housing allocation burdens imposed on each
18 jurisdiction by the Department of Housing and Community Development and to the well documented impacts
19 of recent development trends in California. These are significant direct and indirect environmental impacts
20 which are reasonably foreseeable and are therefore required to be evaluated in an EIR under CEQA.

21 6. Petitioners' have a strong interest in the continued viability of Rule 28B transfers because
22 of the key role they play in providing water for redevelopment and urban infill projects currently planned
23 for development within Petitioners' jurisdictions. These projects may be placed in jeopardy if water
24 transfers are eliminated or postponed.

25 _____
26 ¹A Water Use Credit represents the amount of water that may be used on a particular piece of property
pursuant to the District's Rules and Regulations.

27 ²In this context "jurisdiction" refers to a particular city or those portions of Monterey County within the
28 District's boundaries.

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1 7. Because of the potential environmental impacts of the implementation of Ordinance
2 No. 102, which have yet to be fully evaluated, this stay should be granted for the protection of the
3 public interest.

4 8. In contrast to the prejudice that Petitioners would sustain if the Application is denied,
5 Respondent will not sustain significant prejudice by the short stay requested.

6 This application is based upon this notice of motion and motion, the accompanying Petition
7 for Writ of Mandate and upon such further evidence or argument of counsel to be introduced at the
8 time of hearing in this matter.

9
10 DATED: May 24, 2002

HATCH AND PARENT

11
12 By Scott Slater
13 SCOTT S. SLATER
14 SARAH J. KNECHT
15 RUSSELL M. MCGLOTHLIN
Attorneys for Petitioner,
CITY OF SEASIDE

16 DATED: May 22, 2002

CITY OF CARMEL

17
18 By Donald G. Freeman
19 DONALD G. FREEMAN
20 Attorney for Petitioner,
CITY OF CARMEL

21
22 DATED: May __, 2002

WELLINGTON LAW OFFICES

23
24 By _____
25 ROBERT R. WELLINGTON
26 Attorney for Petitioner,
27 CITY OF DEL REY OAKS
28