



# Monterey County

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## Board Report

Legistar File Number: 17-0028

January 10, 2017

**Introduced:** 12/23/2016

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** General Agenda Item

Approve and authorize a transfer totaling \$100,000.00 from General Fund Contingencies, 001-1050-8034-CAO020, to Enterprise Risk Fund, 001-1210-8429-COU006 for initial costs associated with defense of Measure Z.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize a transfer totaling \$100,000.00 from General Fund Contingencies, 001-1050-8034-CAO020, to Enterprise Risk Fund, 001-1210-8429-COU006 for initial costs associated with defense of Measure Z.

### SUMMARY:

Litigation has been initiated over Measure Z, a citizen sponsored initiative to limit and ban oil extraction. The claims include state preemption, inversion condemnation, and unconstitutional taking of property.

### DISCUSSION:

As you are aware, Measure Z was successfully adopted by the voters at the November 8, 2016 general election. Although it is predominantly known as a ban on hydraulic fracturing ("fracking"), its impact is much broader. Measure Z amends the County's General Plan and several Local Plans to limit and ban many oil extraction practices in Monterey County, including acid stimulation, wastewater disposal and new well drilling. Understandably, Measure Z has spurred significant interest by proponents, opponents, property owners, workers, oil and gas companies, environmental groups, school districts, agriculture, and others.

Two lawsuits have been filed against Monterey County to overturn Measure Z. The Plaintiffs in these two cases are Aera Energy, Chevron Corporation, Ensign United States Drilling, San Ardo Union Elementary School District, and some individuals. Plaintiffs are represented by several attorneys from San Francisco, Sacramento and Los Angeles based law firms. We expect additional lawsuits from other interested entities and persons.

The issues are complex and include State regulation versus local regulation (preemption), vested rights to continue operations, temporary government regulatory taking of property (property rights), injunctions, permanent government regulatory taking, vagueness, due process, and other State and Federal Constitutional claims.

Because of the complexity of issues and parties, at this time, costs are unknown. We request the Board authorize a transfer of \$100,000.00 from Contingencies into the Enterprise risk Fund

for initial funding of defense.

OTHER AGENCY INVOLVEMENT:

County Administrative Office.

FINANCING:

The transfer of \$100,000.00 is needed to cover the initial legal defense of Measure Z from the General Fund Contingencies.

Prepared by:

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Charles McKee                      Date  
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Approved by:

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Valerie Shapton                      Date  
Finance Manager  
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Attachments:

None