

FILED

12/14/2016

TERESA A. RISI
CLERK OF THE SUPERIOR COURT

Deputy
Nicholson, Janet

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY

AERA ENERGY LLC, a California limited liability company,

Petitioner and Plaintiff,

vs.

COUNTY OF MONTEREY, a municipal corporation; and DOES 1 through 25, inclusive,

Respondents and Defendants.

Case No. 16CV003980

JOINT STIPULATION AND ~~PROPOSED~~ ORDER AND STAY

1 **JOINT STIPULATION**

2 Aera Energy LLC ("Aera") and the County of Monterey ("County") (collectively, the
3 "Parties"), through their undersigned counsel, hereby stipulate and agree as follows:

4 WHEREAS, on November 8, 2016, the voters in the County of Monterey voted on an
5 initiative identified as Measure Z and titled "Initiative to Prohibit Fracking and Oil and Natural
6 Gas Well Stimulation Treatments, Prohibit Oil and Natural Gas Wastewater Injection and
7 Impoundment, and Limit New Oil and Natural Gas Operations in Unincorporated Monterey
8 County" ("Measure Z");

9 WHEREAS, the results of the November 8, 2016, election are currently awaiting final
10 certification and declaration of the vote by the County of Monterey, which is expected to take
11 place on or around December 13, 2016;

12 WHEREAS, Measure Z amends the Monterey County General Plan, Local Coastal
13 Program, and Fort Ord Master Plan to prohibit, among other things, any drilling or well
14 stimulation activities within the County of Monterey;

15 WHEREAS, Measure Z will be effective ten days after the final vote is declared by the
16 Board of Supervisors, per section 9122 of the Elections Code;

17 WHEREAS, after declaration of the final vote and prior to the effective date of Measure
18 Z, Aera will initiate legal proceedings challenging the enactment and implementation of Measure
19 Z;

20 WHEREAS, Aera believes that it will be irreparably harmed by Measure Z and that Aera
21 is legally entitled to an injunction to preserve the status quo while this matter is addressed in the
22 Courts;

23 WHEREAS, the County believes that, consistent with Sections 6(B) and 7(I) of Measure
24 Z, this Stay is necessary to provide it with sufficient time to allow this matter to be addressed by
25 the Court and to develop, approve and implement procedures required by portions of Measure Z,
26 while also protecting existing rights and operations of the Parties; and

27 WHEREAS, in an effort to conserve their and the Court's resources, the Parties have
28 agreed and hereby stipulate that the Court should enter an Order and Stay in the form set forth

1 herein.

2 NOW THEREFORE, IT IS HEREBY STIPULATED by and between AERA ENERGY
3 LLC and the COUNTY OF MONTEREY, by and through their counsel of record, as follows:

4 1. The Parties agree that a Stay shall be issued in the form set forth herein,
5 subject to the Court's approval;

6 2. The Parties agree to waive any requirement for a bond or undertaking prior to
7 effectiveness of this Stay; and

8 3. All Parties acknowledge that nothing in this Stipulation shall constitute an
9 admission by either Party relating to any matter at issue in this action.

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STIPULATED AND AGREED,

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12 Dated: December 12, 2016

MANATT, PHELPS & PHILLIPS, LLP

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14 By: 

Andrew A. Bassak

Attorneys for Petitioner and Plaintiff
AERA ENERGY LLC

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18 Dated: December 12, 2016

BEST BEST & KRIEGER, LLP

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20 By: 

Gene Tanaka

Attorneys for Defendant/Respondent
COUNTY OF MONTEREY

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ORDER AND STAY in 16CV003980

UPON GOOD CAUSE SHOWN, IT IS ORDERED that:

The effective date for the “Initiative to Prohibit Fracking and Oil and Natural Gas Well Stimulation Treatments, Prohibit Oil and Natural Gas Wastewater Injection and Impoundment, and Limit New Oil and Natural Gas Operations in Unincorporated Monterey County” adopted by the voters of Monterey County on November 8, 2016 and designated as Measure Z (“Measure Z”), is stayed effective immediately.

During the pendency of the Stay, all oil and gas operators within Monterey County shall refrain from applying for or obtaining any well stimulation treatment (“WST”) permit from the Division of Oil, Gas and Geothermal Resources (“DOGGR”) in the California Department of Conservation, as required by Article 3 of Chapter 1 of Division 3 of the Public Resources Code, as added by Senate Bill No. 4, to conduct any well stimulation treatment to the extent that Article 3 or DOGGR’s regulations would require a WST permit as of December 13, 2016;

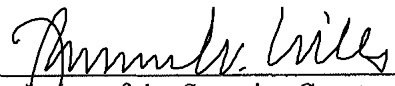
The County is not stayed from developing and approving procedures necessary to implement Measure Z, including, but not limited to, procedures to implement the exemption process contained in Section 6 of Measure Z, and, once procedures are developed and approved by the County, from accepting applications for and implementing the exemption process set forth in Measure Z;

This Stay shall remain in effect as provided therein or until otherwise ordered by the Court. The County may, in its discretion, elect to terminate this Stay by providing Plaintiffs/Petitioners and the Court with written notice of termination. This Stay shall be automatically lifted 180 days after the Court and the Parties receive such written notice from the County, unless, on proper motion of any affected party, the Court finds that a temporary restraining order or preliminary injunction should issue enjoining implementation and enforcement of Measure Z; and

1 In stipulating to the Stay and seeking this Order, no Party has waived any rights with
2 respect to any claims or defenses that may be asserted in any legal or administrative proceeding
3 challenging the validity of Measure Z or seeking an exemption from its effect.

4 IT IS SO ORDERED, in 16CV003980

5 Dated: December 14, 2016



Judge of the Superior Court
Monterey County Superior Court

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