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Houlemard6 let

10 April, 2008

VIA FACSIMILE 883-3675 , EMAIL

Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
100 12th Street, Bldg. 2880
Marina, CA 93933

Re: Request for Interim Use of Water Resources
Agenda Item 8a

Dear Mr. Houlemard:

Save Our Peninsula Committee and the Ford Ord Community Advisory Group have reviewed the FORA Board Report regarding the above-referenced Agenda Item 8a and request the Board to take no action on the Request for Interim Use of Water Resources until such time as:

- (1) a legally adequate CEQA assessment is undertaken
- (2) that all the questions posed by the City of Marina in its April 2, 2008 letter addressed to the Board are fully answered; and
- (3) the Board completes the Base Reuse Reassessment Planning Update.

The Board's action regarding the Request for Interim Use of Water Resources is a discretionary act under CEQA, Public Resources Code § 21080(a), hence a project requiring environmental assessment. Project is defined under CEQA Guidelines 15378 as the whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Public agency action that will not have an immediate effect on the environment but will culminate in physical impact to the environment is a project under CEQA. *Fullerton Joint Union High School District vs. State Board of Education (1982) 32 Cal 3d 779, 795.* The definition is broad to maximize

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protection of the environment and not overlook the cumulative effect of the whole action. *Bozung vs. LAFCO (1975) 13 C 3d 263, 283. Guidelines § 15378.*

The proposal at hand, the Request for Interim Use of Water, is a project that may have significant impact on the environment because the water is going to be used, in part, for planned future development, to assist in obtaining written verification of a water supply or help make up shortages in Seaside Groundwater Basin. The Request for Interim Use of Water is a necessary step in the chain of events that will culminate in primary and secondary impacts to the environment.

FORA should consider both the primary or direct and secondary or indirect consequences of the proposal. Secondary consequences may be several steps removed from the project in a chain of cause and effect. Indirect or secondary effects may include growth induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems. *City of Carmel By The Sea v. Board of Supervisors (1986) 183 Cal App 3d 229 244. Save Our Peninsula Committee v. County of Monterey (2001) 87 Cal App 4th 99, 133.* The assessment in this instance should take into account the foreseeable environmental impacts of providing the loaned water and the potential impacts associated with the use of the loaned water by Del Rey Oaks and Seaside, including the consequences if Del Rey Oaks and Seaside do not repay it. The assessment should also consider the foreseeable water needs of other FORA member jurisdictions.

The City of Marina posed important questions that should be answered. What is Seaside and Del Rey Oaks going to do with the water? The Staff Report indicates the use of the water is for golf course irrigation; however, Marina's letter indicates that the water may go towards Seaside's legal obligations related to the current adjudication of the Seaside Groundwater Basin and its obligations under the DDA for the Seaside Resort project and to secure Del Ray Oaks' written verification of supply availability (SB 221) for its mixed-use hotel resort and golf project. These possible uses imply permanent use. If an augmented water supply is not forthcoming, repayment seems unlikely. It is troubling that the Staff Report does not note these potential uses. SOP and FOCAG requests copies of all correspondence concerning "The Request" with the cities of Seaside and Del Rey Oaks, Marina Coast Water District and the developer of the project listed above. SOP and FOCAG would also like copies of the Staff Reports and minutes of the Administrative Committee and Executive Committee review of "The Request" and FORA's response to the City of Marina's letter.

Lastly, it should be noted that FORA started the Base Reuse Reassessment Planning-Update pursuant to the terms and conditions of the Sierra Club Settlement Agreement and it was abruptly stopped. The Base Reuse Plan is close to ten years old and out of date. Water and traffic impacts have far exceeded those contemplated in the Reuse Plan EIR. Prior to considering the Request (or determining consistency of any new land use or development

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entitlement), the Reuse Plan should be assessed pursuant to the terms and conditions of the Sierra Club Settlement Agreement.

If you have any questions, please feel free to call.

Sincerely,

RICHARD H. ROSENTHAL
Attorney at Law

RHR/kw

cc: Linda Stiehl, Clients, Anthony Altfeld