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## Haddad v. City Council of Monterey, No. H025805, 2004 Cal. App. Unpub. LEXIS 4651 (Cal. Ct. App. May 13, 2004)

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Haddad v. City Council of Monterey, No. H025805, 2004 Cal. App. Unpub. LEXIS 4651 (Cal. Ct. App. May 13, 2004)

**Haddad v. City Council of Monterey, No. H025805, 2004 Cal. App. Unpub. LEXIS 4651 (Cal. Ct. App. May 13, 2004)** (holding the city council's decision not to pursue pueblo water rights was neither arbitrary nor capricious, nor lacking in evidentiary support).

Lou Haddad ("Haddad") urged the City of Monterey ("City") to hold hearings to address whether the City should pursue "pueblo water rights" ("PWR"). At the public hearing, the City Attorney recommended the City not pursue costly and time-consuming PWR litigation. The City Council of Monterey ("Council") subsequently voted not to pursue PWR. The majority based their vote on the unlikely success, the cost, and the inappropriateness of pitting the City against other jurisdictions through PWR claims. Haddad filed a writ of mandate in California State Court claiming the Council abused its discretion. The trial court denied the petition. On appeal, Haddad asserted that the trial court erred in denying his petition because (1) the City had a duty to pursue PWR; (2) Haddad had a valid declaratory relief action; and (3) Haddad had standing to pursue PWR on his own behalf.

The Court of Appeal of California for the Sixth Appellate District stated the separation of powers doctrine precluded the court from compelling the Council to make a particular legislative action. Thus, the court found it could only review an arbitrary and capricious Council decision, or a Council policy choice entirely lacking in evidentiary support, and could not look into the wisdom or reasonableness of that Council choice. The court found that the Council did not act arbitrarily or capriciously, nor did the Council's action entirely lack evidentiary support. The court based this determination on the evidence before the Council on the likely success and cost of a PWR claim, as well as the potential for alienating neighbor jurisdictions. The court further stated that attacking an administrative order with an action for declaratory relief was not permissible, and thus dismissed that issue. The court also dismissed Haddad's standing issue to pursue the City's PWR on his own behalf since Haddad's original petition did not raise the issue. Therefore, the court affirmed the district court's judgment to deny Haddad's petition.

*D.M. Shohet*

**Protect Our Water v. County of Stanislaus, No. F042089, 2003 Cal. App. LEXIS 11470 (Cal. Ct. App. Dec. 8, 2003)** (holding the California Environmental Quality Act required a party seeking approval of an "addendum" to a previously certified environmental impact report to comply with the statutory procedures, including determining whether the addendum constituted a substantial change within the meaning of the statute).