VIEWPOINT ARTICLE – THE CAMBRIAN
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CCSD DEFENDS ITS WATER MASTER PLAN EIR
AND PREVAILS AGAINST LANDWATCH SLO COUNTY

The CCSD was the prevailing party in a case recently concluded (August 9th) in SLO Superior Court after Judge Martin Tangeman denied Landwatch SLO County's petition for writ of mandate in its entirety, ruling that **the findings in the CCSD's Water Master Plan EIR were supported by substantial evidence**. (Emphasis added.) Finding that Landwatch had not met its burden of proof, Judge Tangeman further ruled:

> Landwatch's repeated statement that "[n]o facts or evidence of facts exist because the project has not been designed or sited" is of no help to Petitioner [Landwatch]. **Instead, it conveys a misunderstanding of the nature and purpose of a programmatic EIR such as this one, where specific findings, analysis, and mitigation measures must necessarily await identification of a specific project**. [Court's Ruling (emphasis added).]

The case dragged on for almost two years, largely as a result of Landwatch seeking "phantom" documents to add to the 9,000+ page administrative record. Additionally, Landwatch, through its attorney, Cynthia Hawley, attempted to assert unrelated claims regarding the Army Corps' test-well work into the case involving the WMP-EIR.

In making this ruling, the Court appears to reflect the frustration that CCSD has endured throughout this lengthy litigation. Despite informal efforts at resolution to avoid costs, CCSD could not convince Landwatch of its misguided position. A final Court ruling was necessary to establish the lack of merit in Landwatch's claims.

As the prevailing party, CCSD is entitled to recover certain costs of litigation. Among other things, CCSD will seek to recover the substantial costs it incurred in preparing the voluminous administrative record that was found to support its findings in the WMP-EIR.

To date, the CCSD has expended more than $50,000 in Water Enterprise Fund revenues to defend this litigation. That's $50,000 less available for much needed water infrastructure maintenance and infrastructure improvements.

BACKGROUND

On October 27, 2008, Landwatch San Luis Obispo County, through its attorney Cynthia Hawley, filed a petition for writ of mandate seeking to invalidate portions of the Water Master Plan Environmental Impact Report ("WMP-EIR") approved by the Board of Directors of Cambria Community Services ("CCSD"). Landwatch sought to challenge portions of the WMP-EIR addressing a potential desalination plant proposed as an option for meeting Cambria's long-term water needs. Landwatch alleged that the Board's approval of the WMP-EIR violated provisions of the California Environmental Quality Act.

On December 8, 2008, CCSD filed an answer to Landwatch's Petition in which CCSD alleged, among other things, that the WMP-EIR was a first-tier Program EIR that was not subject to the more stringent requirements of a Project EIR for a specific project such as desalination. The WMP-EIR itself refers to the fact that it is a Program EIR and also repeatedly states that a project-specific EIR and environmental impact study EIR/EIS will be performed for the desalination plant.