

MICHAEL R. JENCKS SBN 053822
LAW OFFICES OF MICHAEL R. JENCKS
4349 Old Santa Fe Road, #5
San Luis Obispo, CA 93401
Telephone (805) 548-0600
Facsimile (805) 548-0601

CYNTHIA HAWLEY SBN 229135
Post Office Box 29 (Mailing Address)
1306 Tamson Drive, Suite 202 (Physical Address)
Cambria, CA 93428
Telephone (805) 927-6102
Facsimile (805) 927-5220

Counsel for Petitioner and Plaintiff

FILED

OCT 27 2008

SAN LUIS OBISPO SUPERIOR COURT
BY M. Zepeda
M. Zepeda, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

LANDWATCH SAN LUIS OBISPO
COUNTY, a California nonprofit public
benefit corporation,

Petitioner and Plaintiff,

v.

CAMBRIA COMMUNITY SERVICES
DISTRICT and DOES 1 through 20, inclusive,

Respondents and Defendants.

UNITED STATES ARMY CORPS OF
ENGINEERS and DOES 21 through 30,
inclusive,

Real Parties in Interest.

CASE NO. CV 080991

VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY RELIEF; NOTICE OF
INTENT; PROOF OF SERVICE OF NOTICE
OF INTENT

[CCP §§1094.5, 1085, Pub. Res. Code §21000
et. seq]

[*This Petition and Complaint Contain Causes
of Action Pursuant to the California
Environmental Quality Act ("CEQA")
Cal. Pub. Resources Code, Division 13,
§§21000-21177*]

1 However, the findings and mitigation measures are based on incomplete and inadequate
2 environmental review that lack, among other things, basic identification of underwater marine
3 plants, animals, and habitats and lack analysis of how the desalination intake and effluent
4 discharge systems will impact those unknown species and habitats.

5 5. Petitioner and the public will suffer irreparable harm if the relief requested is not
6 granted in that the foundational elements of the desalination project – the geotechnical tests and
7 project specific designs – will be unsound to the degree that they are derived from and built upon
8 the incomplete and inadequate data and analyses within the foundational Program EIR. If not
9 remedied at this state of the planning process, the incomplete and inadequate data and analyses
10 within the Program EIR will inform and shape geotechnical tests and project designs that will
11 translate directly into construction and operation of a desalination facility that may, as a result,
12 have significant detrimental environmental impacts on, among other things, marine species and
13 habitats that were never identified and never analyzed in the environmental review.

14 6. If Respondent does not address these voids in the environmental data and analysis
15 at this point before any further project design and geotechnical testing, it may risk future delays in
16 project approval and development.

17 7. Petitioner and the public generally will suffer irreparable harm if the relief
18 requested is not granted in that actions in preparation for a project-specific design of the proposed
19 desalination facility including, among other things, intake systems and systems for discharge of
20 effluent are not supported by adequate environmental review as alleged herein. For example, the
21 Program EIR does not contain a description of the environmental setting related to marine plants,
22 animals, and habitats so that no baseline of existing conditions exists from which impacts to those
23 species and habitats may be analyzed and mitigated.

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II. PARTIES

8. Petitioner LandWatch San Luis Obispo County is a California nonprofit public benefit corporation LandWatch dedicated to protection of the natural environment through grassroots activism, enforcement of land use and environmental legislation and promotion of sound environmental and land use legislation. LandWatch’s particular interest in this case, and the issues which the case concerns stem from, are protection of coastal public resources including but not limited to marine species and habitats.

9. Respondent Cambria Community Service District is, and at all times relevant to this action was, the governmental entity responsible for approving the Water Master Plan which is the subject of this lawsuit, is a “public agency” within the meaning of CEQA, and is the “lead agency” under CEQA responsible for the proposed project’s CEQA compliance.

10. Petitioner is ignorant of the true names and capacities of the respondents sued herein as Does 1 through 20, inclusive, and the real parties served as Does 21 through 30, inclusive, and therefore sues these respondents and real parties in interest by fictitious names. Petitioner will amend this petition to specifically identify such persons when they are ascertained. Petitioner is informed and believes, and thereon alleges, that each of the fictitiously named respondents is in some manner responsible for the acts and/or omissions alleged herein.

III. PRIVATE ATTORNEY GENERAL DOCTRINE

11. Petitioner brings this action as private attorneys general pursuant to Code of Civil Procedure §1021.5 and any other applicable legal theory to enforce important rights affecting the public interest. By compelling Respondent CCSD to set aside as void the elements within its

1 Program EIR related to desalination, the public will benefit in that Respondent will be prevented
2 from, in a void of relevant information, designing and building a desalination plant that may harm
3 the coastal environment enjoyed by Petitioner's members and others. If compelled to identify and
4 analyze the environmental impacts of the proposed desalination plant based on complete and
5 adequate data and information, Respondent CCSD Board of Directors will be able to make
6 informed decisions about the impacts the project may have on the environment and thus generate
7 tests and design plans that will protect environmental resources by elimination and mitigation of
8 harmful impacts.
9

10 12. Petitioner will serve a copy of this Petition on the Attorney General's office to give
11 notice of Petitioner's intent to bring this action as private attorneys general under Code of Civil
12 Procedure §1021.5.
13

14 **IV. STANDARD OF REVIEW**

15 13. Petitioner brings this action pursuant to Code of Civil Procedure §1094.5 and
16 Public Resources Code §§21000 et seq. for administrative mandamus. The inquiry is whether
17 Respondent Cambria Community Services District abused its discretion by not proceeding in the
18 manner required by law and by failing to support its findings with evidence in the record.
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20 14. The standard of review is the substantial evidence test by which the court reviews
21 the administrative record to determine if the evidence within the whole record supports the
22 agency's findings.

23 **V. JURISDICTIONAL ALLEGATIONS**

24 15. Jurisdiction of this court is invoked over the matters alleged in this Petition
25 pursuant to sections 1060, 1085, and 1094.5 of the Code of Civil Procedure, sections 21000 et seq.
26 of the Public Resources Code, and CEQA Administrative Guideline §15112.

1 16. Petitioner has performed all conditions precedent to filing this action by serving a
2 Notice of Intent to File CEQA Petition on Respondent Cambria Community Services District as
3 required by Public Resources Code §21167.5. Proof of service is being filed concurrently with this
4 petition.

5 17. Petitioner, interested groups, and individuals through oral and written comments,
6 including correspondence, statements, written comments to the Draft Program EIR, and
7 presentation of oral testimony before CCSD hearings, raised a number of procedural and
8 substantive objections, and in doing so raised each of the legal deficiencies asserted in this petition
9 and have exhausted available administrative remedies.

10 18. Petitioner has performed all conditions precedent to filing this action by serving a
11 Notice of Intent to File CEQA Petition on Respondent CCSD as required by Public Resources
12 Code section 21167.5. Proof of service thereof is being filed concurrently with this action.

13 19. The CCSD is threatening to proceed with approval of development projects within
14 the Cambria Water Master Plan in the near future. Petitioner and the public generally will suffer
15 irreparable harm if the relief requested herein is not granted, in that approval of Water Master Plan
16 projects will result in environmental impacts on marine life and other resources that have not been
17 adequately studied, and which could reasonably and feasibly be avoided through alternatives that
18 have been so far ignored, all to the detriment of Petitioner and the public generally. A temporary
19 restraining order and preliminary and permanent injunctions should issue restraining the County
20 from issuing any permits or entitlements or taking any other action to carry out the implementation
21 of the Water Master Plan. Respondent CCSD has exceeded its jurisdiction and failed to carry out
22 its duties required by law as alleged herein and Petitioner has no plan ready or adequate remedy at
23 law.

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1 20. Respondent CCSD has a mandatory duty to carry out the requirements of the
2 California Environmental Quality Act and issuance of the writ of mandate will result in
3 enforcement of its duties and important rights affecting the public interest and confer a significant
4 benefit on the general public. Petitioner has incurred and will continue to incur attorneys' fees in
5 the prosecution of this action. The necessity and financial burden of prosecuting this action entitles
6 Petitioner to an award of attorneys' fees, including under Code Civ. Proc. §1021.5.

7 **VI. SCOPE OF THE PETITION AND PROCEDURAL HISTORY**

8 21. The scope of this petition and request for declaratory relief is limited to challenging
9 violations within Respondent CCSD's Water Master Plan Program EIR related to the proposed
10 seawater desalination project. Petitioner does not challenge the analyses and findings related to the
11 recycled water and potable water distribution systems within the Program EIR. Specifically, in the
12 two causes of action below Petitioner challenges Respondent Cambria Community Services
13 District's 1) findings that the proposed seawater desalination project would have less than
14 significant impacts on the environment on the ground that it did not support its findings with
15 evidence and data in the record, and 2) finding that the desalination project will have less than
16 significant impacts on biological resources on the ground that Respondent CCSD did not analyze
17 the impacts the desalination project may have on marine species and habitats or analyze how the
18 effluent discharged into the ocean waters would be carried through underwater habitats by marine
19 currents. Overall, environmental review of the proposed desalination facility lacks adequate legal
20 descriptions of the environmental setting, fails to establish baseline data upon which impacts can
21 be analyzed, and as a result fails to support its findings of insignificance.

22 22. Respondent CCSD conceived the idea of developing a Water Master Plan in 1999
23 and in 2001 decided to produce the Plan in phases including a Land Use and Build Out Analysis,
24 Water Supply and Availability Analysis, Water and Recycled Distribution Systems, Water
25 Resources Plan, Financing Study, and Habitat Conservation Plan.

1 23. On July 24, 2003 the CCSD Board of Directors decided to proceed with an initial
2 study and development of an environmental clearance strategy for the Water Master Plan. The
3 strategy developed by the CCSD included production of the program-level Environmental Impact
4 Report challenged herein by Petitioner and later refinement of the conceptual projects
5 recommended in the Water Master Plan during the planning process. Respondent intended the
6 Water Master Plan to serve as an umbrella environmental clearance document for the water
7 projects recommended by the Water Master Plan.

8 24. In addition, on July 24, 2003 Respondent CCSD selected desalination as an
9 alternative water source for Cambria and, among other things, determined the production capacity
10 of the facility.

11 25. The Notice of Preparation for the Program EIR was issued on July 2, 2004 and the
12 Draft Program Environmental Impact Report was made available for public review on February 29,
13 2008. Petitioner submitted timely written comments on the Draft EIR during the 45 day review
14 period.

15 26. On August 21, 2008 the CCSD Board of Directors adopted Resolution 28-2008
16 approving certification of the Water Master Plan Program EIR and adopted findings in support of
17 the certification. The projects analyzed within the Program EIR that would cause physical changes
18 in the environment are seawater desalination, recycled water, and potable water distribution system
19 improvements. Again, the scope of this action is limited to the Program EIR's analyses related to
20 the seawater desalination project and contains no challenge to analyses of the recycled water
21 project or the potable water distribution system. Respondent CCSD filed a Notice of
22 Determination on or about September 26, 2008.

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VII. HEARING AND TRIAL SETTING PREFERENCE

27. This action is brought pursuant to Public Resources Code §§21000 et seq. and, pursuant to §21167.1 is to receive preference over all other civil actions in setting the action for hearing or trial.

VIII. INJUNCTIVE RELIEF

28. Petitioner is now, and at all times mentioned in this petition has been interested in the enjoyment, protection and preservation of the natural resources in the Cambria area and the North Coast area of San Luis Obispo County.

29. Respondent CCSD is threatening to proceed in the near future with geotechnical tests, design plans, approval, and construction of the proposed desalination project and anticipates completion of the project within the next four to five years (EIR p. 3-21). Petitioner and the public in general will suffer irreparable environmental harms if the relief requested is not granted in that implementation of the desalination facilities will result in harmful impacts to marine life and other resources that have not been completely and adequately identified and analyzed, harms that could reasonably and feasibly be avoided through proper analyses and proper identification of project alternatives and mitigation measures.

30. Based on findings of insignificant impacts related to construction and operation of the desalination project that Respondent admits are not supported by data or evidence in the record, Respondent CCSD justifies, and threatens to proceed with development of project specific geotechnical tests, design plans, and construction of the proposed desalination facility. Respondent’s claimed analyses, mitigation measures, conclusions, and findings are based,

1 according to Respondent's own acknowledgements, on incomplete and inadequate environmental
2 data as described herein and lack, among other things, basic identification of underwater marine
3 plants, animals, and habitats and analyses of how the desalination intake and effluent discharge
4 systems will impact those unknown species and habitats.

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6 31. There is no doubt that the Program EIR explicitly contemplates construction and
7 operation of the proposed desalination project and makes unsupported ultimate findings as to
8 environmental impacts caused by construction and operation of the project. For example, at page
9 5.6-24 the EIR states that "[A]nalysis has concluded that impacts" to sensitive plant and wildlife
10 species caused by construction activities "would be reduced following implementation of the
11 recommended mitigation." At page 2-20 the EIR states that "[A]nalysis has concluded that
12 impacts" associated with implementation of the seawater desalination facilities that could interfere
13 with wildlife corridors "would be reduced following implementation of the recommended
14 mitigation ..". (Also see EIR sections 2.3 and 5.)

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16 32. However, by Respondent's own admission, the EIR does not provide detailed data
17 and analyses related to project specific environmental impacts that would support project specific
18 findings and defers such analyses to later project specific EIRs and EISs. Repeated throughout the
19 EIR are statements such as "[T]he specific impacts to sensitive habitats and/or SRAs (sensitive
20 resource areas) from the desalination facility would be dependent upon the final improvement
21 plans" and a "future project-specific EIR/EIS would need to further determine the potential
22 impacts to sensitive habitats and resource areas after more details become known regarding the
23 desalination facility."
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1 33. Thus, by Respondent's own admissions, the findings within the EIR that the design,
2 construction and operation of the proposed desalination project will have no significant impacts on
3 the environment are unsound, incomplete and inadequate and Respondent CCSD should be
4 enjoined from any further actions related to implementation of the proposed desalination project
5 until the data and analyses have been produced to support those actions.
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7 34. Petitioner and the public will suffer irreparable harms if Respondent CCSD is not
8 immediately enjoined from proceeding with the threatened geotechnical tests and desalination
9 project design plans. Such tests and design plans will be environmentally unsound in that they rely
10 upon the incomplete and inadequate data and analyses and unsound findings within the Program
11 EIR. If not remedied at this stage of the planning process these tests and designs will translate
12 directly, as contemplated, into the construction and operation of a desalination facility that may, as
13 a result, have significant detrimental environmental impacts on, among other things, marine
14 species and habitats that were never identified and never analyzed in the environmental review.
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16 35. In addition, if Respondent does not address these voids in the environmental data
17 and analysis at this point before any further project design and geotechnical testing occur, it may
18 risk future delays in project design, approval and development.
19

20 36. Respondent CCSD is now failing to perform, and at all times mentioned in this
21 petition has failed to perform the duties described in this petition and has had, and continues to
22 have the authority and the ability to perform those duties. The CCSD's wrongful conduct, unless
23 and until enjoined and restrained by order of this court, will cause great and irreparable harm to
24 Petitioner and its members and to the public as described herein. The acts that Petitioner seeks to
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1 prevent are imminent as described above and in other parts of this petition.

2 37. Petitioner will likely prevail on the merits because, as described herein and in the
3 public record, Respondent CCSD lacks complete and adequate data and analyses to support its
4 ultimate findings that the proposed desalination facilities as described and defined within
5 Respondent's Program EIR will have less than significant effects on the environment and
6 Respondent CCSD admits that it lacks such data and analyses. In addition, the record
7 demonstrates and Respondent admits that it failed to provide any data and analyses related to the
8 impacts the proposed seawater intake and effluent discharge will have on marine species and
9 habitats to support its findings that the project will have less than significant impacts on biological
10 resources.
11

12 38. Petitioner cannot be compensated in damages and has no adequate remedy at law
13 for the threatened harm to natural coastal and marine resources by Respondent CCSD as described
14 herein. Continuance of the complained of tests, project planning, and project development during
15 the course of this litigation would produce a waste of public funds and cause irreparable and
16 irrevocable losses of coastal and marine resources valued by Petitioner's members and others. The
17 interim harm that Petitioner's members and the public would sustain if an injunction is denied is
18 far greater than the harm Respondent CCSD is likely to sustain if an injunction is issued because
19 Respondent CCSD would suffer only a delay of the project if it prevailed in this action.
20 Respondent's harm would be reparable and temporary while the losses to Petitioner's members
21 and the public of public natural resources would be irreparable and permanent.
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IX. FIRST CAUSE OF ACTION

(Public Resources Code §§21000 et seq.; California Code of Regulations §§15000 et seq.; Code of Civil Procedure §1094.5)

39. Petitioner incorporates by references the allegations in the paragraphs set forth above.

40. Respondent CCSD made ultimate findings in its Water Master Plan Program Environmental Impact Report that the construction and operation of its proposed seawater desalination facility would have no significant impacts on the environment but failed to support those findings with facts and evidence in the record. In so doing, Respondent CCSD abused its discretion in that it failed to proceed in the manner required by law and it failed to support its administrative decision to approve and certify the Water Master Plan Program EIR with evidence in the record.

41. Section 21081 of the Public Resources Code (California Environmental Quality Act hereinafter referred to as CEQA) sets forth the findings that must be made by a public agency that approves or carries out a project for which a certified environmental impact report “identifies one or more significant effects on the environment”. According to §21081, one or more of three specific findings must be made with respect to each identified significant environmental effect. The findings are:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified

1 in the environmental impact report.

2 42. The CEQA Guidelines and the courts require that any findings pursuant to §21081
3 must be supported by substantial evidence in the record. (14 California Code of Regulations
4 §15-091(b))

5 43. In addition to making the statutory finding, the courts require that an agency must
6 support the finding with substantial evidence in the record and must provide an explanation of a
7 logical step between the ultimate finding and the evidence in the record.

8 44. On or about August 21, 2008, Respondent CCSD made ultimate findings that the
9 environmental effects of the construction and operation of its proposed desalination facility would
10 be less than significant but failed to support its findings with facts in the record. The Program EIR
11 did not provide sufficient information from which Respondent's ultimate findings as to the effects
12 of construction and operation of the proposed desalination could be made. Without facts on which
13 to base its findings, Respondent CCSD also failed to explain any logical steps that linked the facts
14 in the record with its findings.

15 45. Without substantial project-specific facts in the record Respondent CCSD acted to
16 adopt ultimate findings that construction and operation of its proposed desalination project will
17 have less than significant effects on environmental values including but not limited to land use and
18 planning, air quality, noise, biological resources, cultural resources, geology and soils, hydrology
19 and water quality, public health and safety, hazardous materials, public services and utilities,
20 parks and recreation services, water resources, and population, housing, and growth.

21 46. The Program EIR lacks facts related to project construction and operation and fails
22 to provide a legally sufficient project description to support its ultimate findings that the
23 construction and operation of the desalination project will have only insignificant effects on the
24 environment. Respondent's EIR fails to provide a legally sufficient environmental setting. It is
25 impossible to foresee the impacts on the environment of construction and operation of a project for

1 which no project-specific and site-specific environmental facts have been provided and
2 analyzed. Respondent CCSD admits repeatedly in the Program EIR that a future project-specific
3 EIR must be produced to analyze the impacts of the project after details about the project become
4 available.

5 47. For the foregoing reasons, a writ should therefore issue to compel Respondent
6 CCSD to set aside its findings of sufficiency as to the environmental impacts of the construction
7 and operation of its proposed desalination facility as set forth below.

8 **X. SECOND CAUSE OF ACTION**
9 **(Public Resources Code §§21000 et seq.;**
10 **California Code of Regulations §§15000 et seq.; Code of Civil Procedure §1094.5)**

11 48. Petitioner incorporates by references the allegations in the paragraphs set forth
12 above.

13 49. According to Respondent CCSD the desalination project consists of the following:

14 The seawater desalination alternative would consist of constructing a subterranean
15 seawater intake, pumping and pipeline facilities to transport the seawater to a
16 desalination plant, a reverse osmosis (RO) desalination treatment process, a
17 groundwater blending system, and pumping facilities to pump the treated water into
18 the distribution system. Concentrated seawater from the RO process would be
19 conveyed in a separate pipeline back to a subterranean system for disbursement
20 back into the groundwater near its junction with seawater. (Program EIR page 3-6)

21 50. Respondent CCSD made the ultimate findings that the construction and operation
22 of its proposed desalination facility would have less than significant impacts on biological
23 resources but did not support said findings with facts and in so doing failed to proceed in the
24 manner required by law and failed to support its findings with evidence in the record.

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1 51. The California Environmental Quality Act requires a lead agency such as
2 Respondent CCSD to describe the physical environmental conditions in the vicinity of the
3 proposed project from both a local and regional perspective. This environmental setting is to
4 constitute a baseline of physical conditions by which the lead agency may determine whether an
5 impact is significant. (California Code of Regulations §15125(a)) Subsection 15125(b)
6 emphasizes that “[K]nowledge of the regional setting is critical to the assessment of environmental
7 impacts.”
8

9 52. With the description of the environmental setting and the baseline of physical
10 conditions, CEQA requires that an EIR must include, among other things, a detailed statement of
11 all significant effects a project may have on the environment and mitigation measures that are
12 proposed to minimize those significant effects on the environment. (Public Resources Code
13 §21100) The lead agency is required to analyze the environmental effects of the specific project
14 under review. (California Code of Regulations §15126)
15

16 53. Respondent CCSD states at page 5.6-25 of its Program EIR that “[S]hort-term
17 construction-related impacts to sensitive plant, wildlife, and marine species are anticipated to be
18 potentially significant.”
19

20 54. However, Respondent’s EIR fails to provide a basic list of marine species and
21 marine habitats in the areas where the proposed seawater intake systems and the effluent discharge
22 systems will be constructed. No detailed statement of impacts is included in the EIR. No analyses
23 of potential impacts to marine species and habitats and mitigation measures to reduce potential
24 construction-related impacts to those species and habitats are provided. In spite of this void of
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1 information and facts in the record, Respondent CCSD adopted the unsupported ultimate finding
2 that the effects of construction of the seawater desalination plant on biological resources would not
3 be significant. (Statement of Facts and Findings, page 22)

4 55. Respondent’s Program EIR affirms that operation of the seawater intake system and
5 the effluent discharge system (concentrate return) may cause impacts to marine life in the vicinity
6 of the desalination plant. The EIR states that marine resources could be impacted by the discharge
7 of concentrated seawater and other processing chemicals that will be discharged back into ocean
8 water through a subterranean pipeline. The EIR states that the impacts will be affected by the total
9 volume of effluent being released, what the effluent is made up of, and how much it is or is not
10 diluted prior to discharging it back into ocean waters. (EIR page 5.6-28, 29)

11 56. Respondent failed to provide a legally sufficient description of the environmental
12 setting as to marine resources including underwater plants, animals, habitats, and marine wildlife
13 corridors that is required to support its findings. Respondent admits that, in relation to marine
14 species, an environmental baseline – currently not in existence – will need to be developed in a
15 future EIR “in order to determine mitigation that avoids or reduces the adverse effects to the
16 marine community and water quality”. (Pages 5.6-29 to 5.6-30) Respondent CCSD admittedly
17 did not have facts available within the Program EIR to support a finding as to the impacts the
18 desalination project might have on marine species and habitats.

19 57. The Program EIR contains no pre-project factual baseline of marine plants,
20 animals, habitats and movement corridors by which project-specific environmental impacts to
21 those marine resources could be determined. No list identifying marine species, habitats, and

1 movement corridors exists in the Program EIR. No description of ocean currents by which
2 discharged effluent would be spread is provided in the EIR. No analysis of the potential impacts
3 the construction and operation of the facility might have on marine resources in the area of the
4 proposed plant exists in the Program EIR.

5
6 58. In spite of these failures, Respondent CCSD made the ultimate findings,
7 unsupported by facts, data, or evidence in the record that construction and operation of the
8 proposed desalination facility will have no significant effects on biological resources. In so doing
9 Respondent CCSD abused its discretion in that it failed to proceed in the manner required by law
10 and failed to support its findings with evidence in the record.

11
12 59. A writ should be issued to compel Respondent CCSD to set aside its findings
13 related to the environmental impacts of the construction and operation of its proposed desalination
14 facility on marine species and habitats as set forth below.

15 **XI. THIRD CAUSE OF ACTION**
16 **(Declaratory Relief: Code Civ. Proc. §1060)**

17 60. Petitioner incorporates by references the allegations in the paragraphs set forth
18 above.

19 61. The record in this action shows that the CCSD has a number of policies in
20 conducting CEQA review that are contrary to state and local law.

21 62. Petitioner seeks declaratory relief that these CCSD policies are illegal based on the
22 actual and present controversy that has arisen and now exists between Petitioners and CCSD
23 regarding the CCSD's interpretation of its statutory obligations under the Government Code and
24 the County Code, including but not limited to whether County ordinances regulating the discharge
25 of effluent to ocean and the extension of pipelines offshore are applicable to desalination plants
26 and whether CEQA requires the CCSD as lead agency to conduct an assessment of the project's

1 impacts on offshore marine and sea floor biological and other resources to the same extent as it dies
2 onshore ones.

3 **XII. PRAYER**

4 WHEREFORE, Petitioner prays for judgment and other relief as follows:

5
6 1. For a peremptory writ of mandate directing:

- 7 a. Respondent to vacate and set aside certification of the Final Program
8 Environmental Impact Report Addressing The Cambria Water Master Plan,
9 including Resolution No. 28-2008, and Notice of Determination filed September 26,
10 2008 for the Project, and its approval of the Project, to the full extent of its
11 discussion, analysis, and findings with respect to impacts and mitigation measures
12 of the seawater desalination component of the Water Master Plan, and to file a
13 return with the Court showing compliance with the writ of mandate;
14
15 b. Respondent to suspend all activity under the Project approval relating to or in
16 furtherance of the seawater desalination component of the Water Master Plan until
17 Respondent has taken actions that may be necessary to bring the environmental
18 determination and Project into compliance with CEQA;
19
20 c. Respondent to cause to be prepared and circulated a new and legally adequate
21 environmental impact report and environmental impact statement addressing and
22 analyzing impacts and mitigation measures of the seawater desalination component
23 of the Water Master Plan, and otherwise to comply with CEQA in any subsequent
24 action to approve the Project;
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VERIFICATION

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I, Michael R. Jencks, declare that:

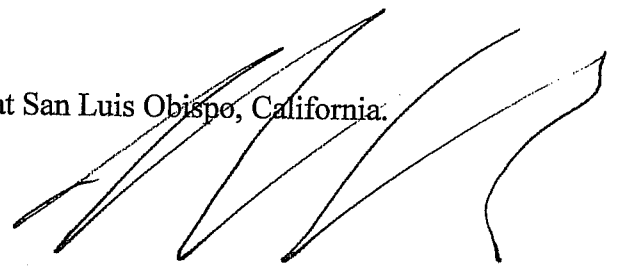
1. I am one of the attorneys for Petitioner in this action.

2. No authorized officer of Petitioner is available today in the County in which I maintain my principal office to execute this Verification and I have executed it on Petitioner's behalf.

3. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof. The factual allegations therein are true of my own knowledge, except as to those matters which are therein stated upon information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

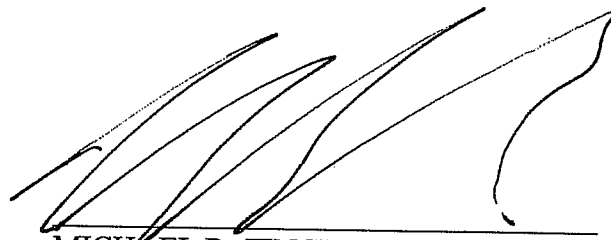
Executed this 27th day of October, 2008, at San Luis Obispo, California.



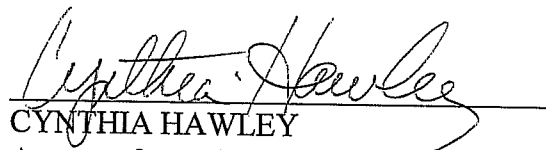
Michael R. Jencks

- 1 2. As necessary and warranted, a temporary restraining order and preliminary
2 injunction restraining Respondent from issuing any permits or entitlements or taking any other
3 action to carry out or implement the seawater desalination component of the Project pending trial;
4 3. Declaratory relief, including but not limited to a judicial determination that CEQA
5 requires the assessment of a project's impacts on offshore marine and sea floor biological and other
6 resources to the same extent as it does onshore ones;
7 4. Petitioner's costs of suit;
8 5. An award of attorneys' fees; and
9 6. Other legal and equitable relief as the Court considers just and proper.
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12 DATED: October 27, 2008
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16 MICHAEL R. JENCKS
17 Attorney for Petitioner

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19 CYNTHIA HAWLEY
20 Attorney for Petitioner
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NOTICE OF INTENT TO FILE CEQA PETITION
[Public Resources Code §21167.5]

TO: Cambria Community Services District

PLEASE TAKE NOTICE, under Public Resources Code section 21167.5, that petitioner LandWatch San Luis Obispo County, a California nonprofit public benefit corporation, and others, intend to file a petition under the provisions of the California Environmental Quality Act ("CEQA") against respondent, Cambria Community Services District ("Respondent"), challenging its approval of the desalination project component sections of its Cambria Community Services District Water Master Plan, including but not limited to its incomplete and inadequate discussion and analysis of the biological, marine, and geotechnical impacts and mitigation measures associated with ocean intake of seawater and discharge of effluents as more particularly described in the Notice of Determination filed with the County of San Luis Obispo on September 26, 2008, and containing the following project description:

The Cambria Community Services District (CCSD) is an independent special district that provides water, wastewater, fire and other community services to its customers. The CCSD has developed a phased completion of its Water Master Plan Update, which calls for potable water distribution system and related improvements for improving fire fighting capabilities; a recycled water system for non-potable landscape irrigation; additional water conservation, and seawater desalination to augment the potable water supply. These recommendations comprise the Water Master Plan (WMP) components that were evaluated within a program-level Draft and Final EIR.

Petitioners do not challenge, the adequacy of the final EIR with respect to the water distribution or other components of the Water Master Plan, including those providing for recycling, fire protection, or conservation.

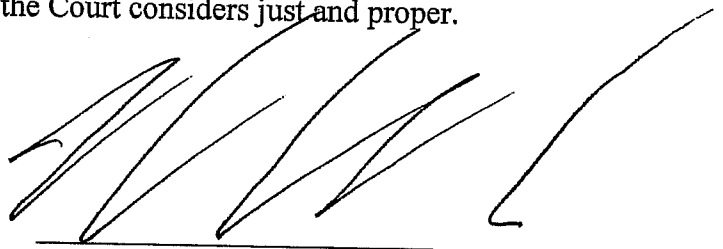
RELIEF: The petition will seek relief, including:

- For a peremptory writ of mandate directing:
 - Respondent to vacate and set aside certification of the Final Program Environmental Impact Report Addressing The Cambria Water Master Plan, including Resolution No. 28-2008, and Notice of Determination filed September 26, 2008 for the Project, and its approval of the Project, to the full extent of its discussion, analysis, and findings with respect to impacts

and mitigation measures of the seawater desalination component of the Water Master Plan, and to file a return with the Court showing compliance with the writ of mandate;

- Respondent to suspend all activity under the Project approval relating to or in furtherance of the seawater desalination component of the Water Master Plan until Respondent has taken actions that may be necessary to bring the environmental determination and Project into compliance with CEQA;
- Respondent to cause to be prepared and circulated a new and legally adequate environmental impact report and environmental impact statement addressing and analyzing impacts and mitigation measures of the seawater desalination component of the Water Master Plan, and otherwise to comply with CEQA in any subsequent action to approve the Project;
- As necessary and warranted, a temporary restraining order and preliminary injunction restraining Respondent from issuing any permits or entitlements or taking any other action to carry out or implement the seawater desalination component of the Project pending trial;
- Declaratory relief, including but not limited to a judicial determination that CEQA requires the assessment of a project's impacts on offshore marine and sea floor biological and other resources to the same extent as it does onshore ones;
- Petitioner's costs of suit;
- An award of attorneys' fees; and
- Other legal and equitable relief as the Court considers just and proper.

Date: October 27, 2008



MICHAEL R. JENCKS
Counsel for Petitioner



CYNTHIA HAWLEY
Counsel for Petitioner

PROOF OF SERVICE BY FACSIMILE

STATE OF CALIFORNIA)
County of San Luis Obispo)

I, the undersigned, declare that I am employed in the County of San Luis Obispo, State of California. I am over the age of 18 years and not a party to the within action; my business address is 4349 Old Santa Fe Road, #5, San Luis Obispo, CA 93401.

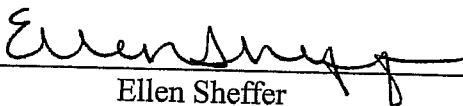
On October 27, 2008, I served in the manner indicated below, the foregoing documents described as on the interested parties in this action by causing a true and correct copy of the above to be transmitted by facsimile to the address and facsimile number listed below, with no error reported by the machine:

Cambria Community Services District
P.O. Box 65
Cambria, CA 93428 Parkway

Facsimile No.: (805) 927-5584

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 27, 2008, at San Luis Obispo, California.


Ellen Sheffer

VERIFICATION

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I, Michael R. Jencks, declare that:

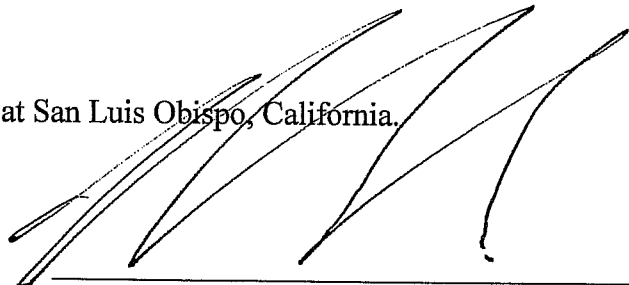
1. I am one of the attorneys for Petitioner in this action.

2. No authorized officer of Petitioner is available today in the County in which I maintain my principal office to execute this Verification and I have executed it on Petitioner's behalf.

3. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory Relief and know the contents thereof. The factual allegations therein are true of my own knowledge, except as to those matters which are therein stated upon information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed this 27th day of October, 2008, at San Luis Obispo, California.



Michael R. Jencks