

1 MICHAEL R. JENCKS SBN 053822  
2 LAW OFFICES OF MICHAEL R. JENCKS  
3 4349 Old Santa Fe Road, #5  
4 San Luis Obispo, CA 93401  
5 Telephone (805) 548-0600  
6 Facsimile (805) 548-0601

7 CYNTHIA HAWLEY SBN 229135  
8 Post Office Box 29 (Mailing Address)  
9 Cambria, CA 93428  
10 Telephone (805) 927-6102  
11 Facsimile (805) 927-5220

12 Counsel for Petitioner and Plaintiff

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SAN LUIS OBISPO

15 PASO ROBLES BRANCH

16	LANDWATCH SAN LUIS OBISPO COUNTY	)	Case No. CV 080991
17	Petitioner,	)	
18	Vs.	)	NOTICE OF MOTION AND
19	CAMBRIA COMMUNITY SERVICES DISTRICT	)	MOTION TO COMPEL
20	Respondent	)	RESPONDENT TO PRODUCE THE
21		)	WHOLE ADMINISTRATIVE
22		)	RECORD; POINTS AND AUTHORITIES;
23		)	PROPOSED ORDER;
24		)	PROOF OF SERVICE
25		)	
26		)	Hearing Date: August 11, 2009
27		)	Dept. No.: Paso Robles Department 1
28		)	Judge: Hon. E. Jeffrey Burke
		)	Date filed: October 27, 2008
		)	Trial date: Not set

25 PLEASE TAKE NOTICE that Petitioner LandWatch San Luis Obispo County moves this  
26 Court for an order to compel Respondent Cambria Community Services District to produce the  
27 whole administrative record as required by §21167.6(e) the California Environmental Quality  
28

1 Act Code of Civil Procedure §1094.5. The hearing on the motion is set for August 11, 2009 at  
2 9:00 a.m. in Department 1 of the Superior Court of San Luis Obispo, Paso Robles Branch at 901  
3 Park Street in the City of Paso Robles.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: 7-22-09

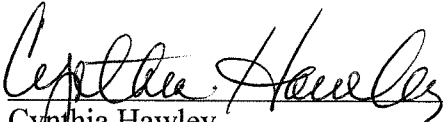
  
Cynthia Hawley

TABLE OF CONTENTS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I.	BACKGROUND	1
II.	THE SCOPE OF REVIEW IS LIMITED TO THE ADMINISTRATIVE RECORD	2
III.	THE STANDARD OF REVIEW IS SUBSTANTIAL EVIDENCE	2
IV.	THE RECORD MUST BE COMPLETE	3
V.	THE BURDEN IS ON THE PETITIONER TO MAKE SURE THAT THE COURT IS PROVIDED WITH THE WHOLE RECORD	4
VI.	WHERE THE WHOLE RECORD IS NOT PRODUCED, THE COURT CANNOT PERFORM ITS DUTY AND PETITIONER IS PREJUDICIALLY DENIED DUE PROCESS AND ITS RIGHT TO EVIDENCE.	5
VII.	RESPONDENT DISTRICT FAILED TO PROVIDE THE WHOLE RECORD AS REQUIRED BY PUBLIC RESOURCES CODE §21167.6(e)	5
VIII.	THE DISTRICT FAILED TO PRODUCE ALL WRITTEN EVIDENCE AND CORRESPONDENCE WITH RESPECT TO THE WATER MASTER PLAN EIR	6
IX.	THE DISTRICT FAILED TO PRODUCE ALL DOCUMENTS RELIED UPON IN PREPARATION OF THE WATER MASTER PLAN AND THE EIR	7
X.	RESPONDENT DISTRICT DID NOT PRODUCE ANY INTERNAL AGENCY COMMUNICATIONS	8
XI.	CONCLUSION	9

TABLE OF AUTHORITIES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Public Resources Code §21167.6(e)	2, 5, 7, 8, 9
Code of Civil Procedure §1094.5	2, 3, 4, 9
Code of Civil Procedure §1094.6	6, 7, 9
<i>Beverly Hills Federal Savings &amp; Loan Assn. v. Superior Court of Los Angeles County</i> (1968) Cal App 2d 259	2
<i>Aluisi v. County of Fresno</i> (1958) 159 Cal. App. 2d 823, 826	2, 4, 5
<i>Topanga Assn. for a Scenic Community v. County of Los Angeles</i> (1974) 11 Cal.3d506	3
<i>Auerbach v. Los Angeles County Assessment Appeals Board No. 2</i> (2008) 167 Cal.App. 4th 1428	3
<i>Honey Springs Homeowners Assn. v. Board of Supervisors</i> (1984) 157 Cal.App.3d,1122	3
<i>Hothem v. City and County of San Francisco</i> (1986) 186 Cal. App. 3d 702	3
<i>Karlson v. City of Camarillo</i> (1980) 100 Cal.App.3d 789	3
<i>Civil Service Commission v. Superior Court</i> (1976) 63 Cal.App.3d 627	3
<i>Feist v. Rowe</i> (1970) 3 Cal.App.3d 404, 422	3
<i>Mattison v. City of Signal Hill</i> (1966) 241 Cal.App. 2d 576	3
<i>Elizabeth D. v. Zolin</i> (1993) 21 CA4th 347,354	4
<i>Cal. Administrative Mandamus</i> (Cont.Ed.Bar 3 <sup>rd</sup> ed. 2004) §4.11, p.114.5	4

1 POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO COMPEL RESPONDENT TO  
2 PRODUCE THE WHOLE ADMINISTRATIVE RECORD

3 I. BACKGROUND

4 On August 21, 2008 Respondent Cambria Community Services District (District)  
5 approved a Program Environmental Impact Report (EIR) that analyzes the environmental effects  
6 of proposed water projects conceptually described within its Water Master Plan. The proposed  
7 projects are intended to increase the water available for the community of Cambria. The  
8 information produced in the EIR was used as rationale for selecting three preferred water sources  
9 for Cambria including a seawater desalination facility to be designed and built by the Army  
10 Corps of Engineers at an as-yet unknown site. (Exhibit A contract) Respondent District made  
11 findings to support its selection of desalination including findings that construction and operation  
12 of the plant would have no significant impacts on the environment and on biological resources.

13 On October 27, 2008 Petitioner LandWatch San Luis Obispo County (LandWatch) filed  
14 this action on the grounds that the District failed to support its findings with evidence the record  
15 as required by the California Environmental Quality Act (CEQA) and the Code of Civil  
16 Procedure (below).

17 In fact, no such evidence exists. Since the plant has not been designed and no final  
18 location has been selected for it, the seawater desalination facility is described in the Water  
19 Master Plan and in the Water Master Plan EIR in concept only. The EIR states explicitly that  
20 plant design and environmental baseline data are needed to determine impacts to biological  
21 resources. (For examples, see Exhibit B, "Seawater Desalination" on page 5.6-25 and "Marine  
22 Environment on pages 5.6-28 and -29)

23 For example, on its web site under the heading "Environmental Concerns" the District  
24 states that "[K]ey environmental concerns associated with seawater desalination include potential  
25 impacts to marine life at the intake due to impingement and entrainment, returning seawater at  
26 salinity concentrations greater than naturally occurring background levels...." (Exhibit C, page  
27 1) No was produced within the record and, according to the District, no evidence exists to  
28

1 support a finding at this preliminary stage that a desalination facility will have no significant  
2 impacts related to these key environmental concerns.

3 Both the California Environmental Quality Act (Pub. Resources Code §21167.6(e)  
4 (Exhibit D) and Code of Civil Procedure §1094.5 (Exhibit E) require a public agency to support  
5 its decisions with findings and to support those findings with evidence in the record. Code of  
6 Civil Procedure §1094.5 requires the agency to produce the whole record.

7 This case is narrowly focused to challenge the District's adopted findings that the  
8 seawater desalination project, which has neither been sited nor designed, will have no significant  
9 effects on the environment and biological resources on the ground that there is no evidence in the  
10 record to support such findings.

11 II. THE SCOPE OF REVIEW IS LIMITED TO THE ADMINISTRATIVE  
12 RECORD

13 The scope of review by the superior court in an administrative mandamus proceeding  
14 pursuant to 1094.5 is limited to a review of the agency's record of those administrative  
15 proceedings. It is on this record alone that the court decides whether the decision made by the  
16 administrative body was supported by substantial evidence. The sufficiency of the evidence to  
17 support an administrative decision on judicial review "... stands or falls on the administrative  
18 record." *Beverly Hills Federal Savings & Loan Assn. v. Superior Court of Los Angeles County*  
19 (1968, Cal App 2d 259, 324. Thus, the only way the Court and LandWatch will have access to  
20 all the evidence in this case is if Respondent District produces its whole record – which it has not  
21 as shown below.

22 III. THE STANDARD OF REVIEW IS SUBSTANTIAL EVIDENCE

23 The standard of review by the Court in an action alleging that the findings of an  
24 administrative body are not supported by evidence in the record is the substantial evidence test.

25 The rule is well settled that on an application for a writ of mandate to review an order of  
26 a local quasi-judicial body ..., the trial court does not have the right to judge the intrinsic  
27 value of the evidence or to weigh it. The power of the court is confined to whether there  
28 was substantial evidence before the commission to support its findings. *Aluisi v. County  
of Fresno (1958) 159 Cal. App. 2d 823, 826*

1 In *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d  
2 506, 514-514, the court clarified the two parts of the test – whether the findings are supported by  
3 substantial evidence in the record and whether those findings support the administrative decision.  
4 In a more recent case the Second District expanded on the issue of standard of review in  
5 *Auerbach v. Los Angeles County Assessment Appeals Board No. 2* (2008) 167 Cal. App. 4th  
6 1428 as follows:

7 In an administrative mandamus action where no limited trial de novo is authorized by  
8 law, the trial and appellate courts occupy in essence identical positions with regard to the  
9 administrative record, exercising the appellate function of determining whether the record  
10 is free from legal error. (*Honey Springs Homeowners Assn. v. Board of Supervisors*  
11 (1984) 157 Cal.App.3d 1122, 1135, fn. 10 [203 Cal.Rptr. 886].) Thus, the conclusions of  
12 the superior court, and its disposition of the issues in this case, are not conclusive on  
13 appeal.

14 In order for the court to determine if the record is free from legal error, the complete  
15 record must be produced.

#### 16 IV. THE RECORD MUST BE COMPLETE

17 Code of Civil Procedure §1094.5(b) requires judicial review of the whole record:

18 "...abuse of discretion is established if the court determines that the findings are not  
19 supported by substantial evidence in the light of the whole record." (Exhibit E)

20 The Court in *Hothem v. City and County of San Francisco* ((1986) 186 Cal. App. 3d 702)  
21 emphasized that the standard of review depends on production and evaluation of the whole  
22 record.

23 Code of Civil Procedure section 1094.5, subdivision (c), declares that in such a superior  
24 court proceeding, an "abuse of [the administrative agency's] discretion is established if  
25 the court determines that the findings are not supported by substantial  
26 evidence in the light of the *whole record*." (italics added by the court)

27 In addition, the same Court (supra) made it clear that it is the burden of the Petitioner to produce  
28 that record for the Court's review:

The burden is cast upon the plaintiff (here Hothem) in a Code of Civil Procedure section  
1094.5 proceeding, to produce the administrative record. ( *Karlson v. City of Camarillo*  
(1980) 100 Cal.App.3d 789, 798, fn. 4; *Civil Service Commission v. Superior Court*  
(1976) 63 Cal.App.3d 627, 630-631; *Feist v. Rowe* (1970) 3 Cal.App.3d 404, 422 ;  
*Mattison v. City of Signal Hill* (1966) 241 Cal.App. 2d 576, 578-579)

1 Including the "whole record" within Code of Civ.Proc. §1094.5 is significant according  
2 to the Court in *Aluisi v. County of Fresno (1958) 159 Cal. App. 2d 823, 826*. In this case, the  
3 transcript of a public meeting was not complete so that the "whole record" was not produced.

4 The court stated that:

5 In 2 California Jurisprudence 2d, section 230, page 383, it is said that while the courts of  
6 this state have applied the statute ( Code Civ. Proc., § 1094.5) without enlarging upon the  
7 significance of the phrase "in the light of the whole record," its addition seems at least to  
8 require the court to examine the whole record and allow a petitioner to point out anything  
9 favorable to him therein, instead of following the old rule which required it only to see  
10 that the record contained substantial evidence to support the ruling under review  
11 and left it free to disregard the rest of the record. (Emphasis added)

12 Thus, in this case production of the whole record is required for review by the Court and  
13 the standard of review for this court is whether, in the light of the whole record, the District  
14 supported with substantial evidence its findings that construction and operation of the as-yet  
15 conceptual and un-sited desalination facility will have no significant negative impacts on  
16 biological resources. As noted above, the evidence on which Petitioner must rely to demonstrate  
17 the error is limited to the administrative record and Petitioner has the right to the whole record to  
18 show that error.

19 V. THE BURDEN IS ON THE PETITIONER TO MAKE SURE THAT THE COURT  
20 IS PROVIDED WITH THE WHOLE RECORD

21 It is LandWatch's duty to file this motion because, even though Respondent District is  
22 the only party capable of producing its administrative record, it is LandWatch's responsibility to  
23 make sure that the District's whole administrative record related to this case is provided to the  
24 court. The burden is on the LandWatch to provide the whole administrative record that shows  
25 the error made by the agency. If the petitioner fails to provide a record that shows the error, the  
26 presumption that the action taken was proper will prevail and the petition will be denied. (*Cal.*  
27 *Administrative Mandamus* (Cont.Ed.Bar 3<sup>rd</sup> ed. 2004) §4.11, p.114.5; *Elizabeth D. v. Zolin*  
28 (1993) 21 CA4th 347,354)

/

/

1 VI. WHERE THE WHOLE RECORD IS NOT PRODUCED, THE COURT CANNOT  
2 PERFORM ITS DUTY AND PETITIONER IS PREJUDICIALLY DENIED DUE  
3 PROCESS AND ITS RIGHT TO EVIDENCE.

4 The Court in *Aluisi v. County of Fresno* (supra) also spelled out that where the  
5 administrative record is not complete, the petitioner is denied due process of law to demonstrate  
6 the agency's errors and the Court is unable to perform its duty to determine whether there was  
7 evidence before the agency to support its findings. At page 826 in the above case the Court  
8 found as follows:

9 The trial court found, inter alia, ..... that because a complete and accurate record of the  
10 evidence was not made and preserved by the commission, petitioners were denied due  
11 process of law, and that the court is without the whole record and cannot perform its duty  
12 in reviewing the evidence in the manner and form required by law; (Emphases added)

13 Thus, LandWatch is charged with the burden of causing the District to produce the whole  
14 administrative record to the Court and LandWatch will be harmed prejudicially if the whole  
15 record is not produced by the District because LandWatch will not have the evidence it needs to  
16 show the error made by the District in its administrative decision making process.

17 Since Respondent District failed to produce the whole record it is LandWatch's duty to  
18 bring this motion so that the Court may compel the District to produce the whole record.

19 VII. RESPONDENT DISTRICT FAILED TO PROVIDE THE WHOLE RECORD AS  
20 REQUIRED BY PUBLIC RESOURCES CODE §21167.6(e)

21 At §21167.6(e) the California Environmental Quality Act (Exhibit D) lists the specific  
22 evidence that must be provided in the administrative record produced for the Court including,  
23 among other things:

- 24 a) staff reports and related documents prepared by the agency with respect to its compliance  
25 with CEQA and to the action on the project,
- 26 b) all written comments received in connection with environmental documents,
- 27 c) all written evidence or correspondence submitted to, or transferred from, the agency with  
28 respect to compliance with CEQA or with respect to the project,
- d) all documents cited or relied on in the findings,

- 1 e) documents relied upon in any environmental document prepared for the project and made  
2 publically available or included in the respondent public agency's files on the project,  
3 f) all internal agency communications, including staff notes and memoranda related to the  
4 project or to compliance with CEQA.

5 Code of Civil Procedure 1094.6(c) requires that the record “shall include the transcript of  
6 the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer,  
7 the final decision, all admitted exhibits, all rejected exhibits in the possession of the local agency  
8 or its commission, board, officer, or agent, all written evidence, and any other papers in the case.

9 VIII. THE DISTRICT FAILED TO PRODUCE ALL WRITTEN EVIDENCE AND  
10 CORRESPONDENCE WITH RESPECT TO THE WATER MASTER PLAN EIR

11 Section seven above requires the District to produce “[All written evidence or  
12 correspondence submitted to, or transferred from, the respondent public agency with respect to  
13 compliance with this division or with respect to the project.” Code of Civ. Proc. 1094.6(c)  
14 requires production of “all written evidence, and any other papers in the case.”

15 As shown on Respondent District’s index of “Staff Reports and Related Documents” in  
16 section 2 of the administrative record produced by the District, (Exhibit F) the documents related  
17 to the writing of the Water Master Plan (the project) and the EIR span a period of over ten years  
18 – from February of 1998 when it sent out its first request for consultant proposals to August 25,  
19 2008 when it certified the challenged EIR. Over four years elapsed between April 2004 when  
20 Respondent District approved a contract with RBF Engineering to write the Water Master Plan  
21 Environmental Impact Report and when it certified the EIR. Yet, the record the District has  
22 offered contains only nine correspondences in section 6, most of which are from community  
23 members, and three outgoing correspondences in section 7, one of which is an email from the  
24 District Engineer to its consultant RBF Engineering.

25 It is nonsensical to consider that during four years of working closely with the consultants  
26 who produced the Environmental Impact Report and ten years of working with multiple  
27 consultants and multiple state and federal agencies including the Army Corps of Engineers on  
28 studies, reports and other documents related to the Water Master Plan and the EIR that the sum

1 total of written correspondences to and/or from consultants and engineers is one email from the  
2 District Engineer to RBF Engineering.

3 To be complete the record must include copies of all communications, and records of  
4 communications such as phone logs, with persons, agencies and private companies including, but  
5 not limited to, the Army Corps of Engineers and all consultants including RBF Engineering  
6 related to the Water Master Plan, the studies that went into it, and the Water Master Plan EIR.  
7 Invoices that describe the work performed and communications with consulting firm staff are  
8 required to be produced by CEQA and the Code of Civil Procedure as cited above because they  
9 are evidence as to whether the scope of data to be included in the Water Master Plan and the EIR  
10 was planned to provide the level of detail required to support the District's findings.

11 Unless Respondent District is compelled to produce all written correspondence with  
12 respect to the project LandWatch will be prejudicially denied due process, denied the right to  
13 evidence needed to show error, and denied the right to carry out its duty to provide the Court  
14 with the whole record.

15 IX. THE DISTRICT FAILED TO PRODUCE ALL DOCUMENTS RELIED UPON IN  
16 PREPARATION OF THE WATER MASTER PLAN AND THE EIR

17 Section 21167.6(e)(10) also requires production of "... documents relied upon in any  
18 environmental document prepared for the project .... included in the respondent public agency's  
19 files on the project ..."

20 Contracts with those who did the actual work to produce the Water Master Plan, the EIR,  
21 and the studies and reports that went into producing the Water Master Plan and the EIR are  
22 certainly correspondences related to the Water Master Plan and the EIR. Pursuant to Public Res.  
23 Code §21167.6(e)(10) (Exhibit D), they are documents relied upon for preparation of the Water  
24 Master Plan, the EIR, and supporting studies and reports in that they describe the information  
25 and analyses that were to be produced under contract. The contracts are written evidence and  
26 "papers in the case" as required by Code of Civ. Proc. 1094.6. (Exhibit E)

1 Production of the Water Master Plan and the Water Master Plan EIR and the relevant  
2 documents listed by the District (exhibit F) involved data, analyses, and reports provided by  
3 multiple consulting and engineering firms under multiple contracts over a ten year period. The  
4 contracts the District entered into with these parties contain the scope of work which details what  
5 the consultants were required to provide and invoices may describe what was in fact provided.  
6 The contracts and invoices may whether Respondent did produce and/or intended to produce the  
7 evidence of plant design and environmental baseline data that must have been generated to  
8 support the District's findings that construction and operation of the facility will not have  
9 significant impacts on biological resources.

10 These contracts are available according to a July 23, 2009 staff report (Exhibit G) which  
11 states in the first paragraph that funding from the Army Corps of Engineers requires the District  
12 to "resurrect" contact documents relating to the proposed desalination project dating back to the  
13 1990s.

14 Unless Respondent District is compelled to produce contracts with, and invoices from  
15 persons and/or firms that produced all, or elements of the Water Master Plan and the EIR and/or  
16 produced data, studies, and reports relied upon in production of the Water Master Plan and EIR  
17 LandWatch will be prejudicially denied due process, denied the right to evidence needed to show  
18 error, and denied the right to carry out its duty to provide the Court with the whole record.

19 X. RESPONDENT DISTRICT DID NOT PRODUCE ANY INTERNAL AGENCY  
20 COMMUNICATIONS

21 According to Pub. Res. Code §21167.6(e)(10) "... all internal agency communications,  
22 (emphasis added) including staff notes and memoranda related to the project or to compliance  
23 with this division" are part of the administrative record that must be produced to the court.  
24 (Exhibit D)

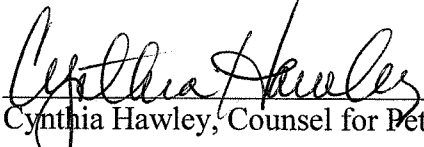
25 Respondent District did not provide a single record of any internal agency  
26 communication related to the Water Master Plan (the project) and the EIR or to compliance with  
27 the California Environmental Quality Act. Unless Respondent District is compelled to produce  
28 all internal agency communications, including staff notes and memoranda related to the project

1 or to compliance with CEQA LandWatch will be prejudicially denied due process, denied the  
2 right to evidence needed to show error, and denied the right to carry out its duty to provide the  
3 Court with the whole record.

4 XI. CONCLUSION

5 In conclusion, LandWatch San Luis Obispo County moves that the Court issue an order  
6 compelling Respondent Cambria Community Services District to produce the whole record as  
7 required by §21167.6(e) of the California Environmental Quality Act and Cal. Code of Civ.  
8 Procedure §§1094.5 and 1094.6 including but not limited to all written evidence and  
9 correspondences with respect to the project – the Water Master Plan – and the project EIR, all  
10 documents relied upon in preparation of the Water Master Plan and EIR including but not limited  
11 to all contracts with, and invoices from related consulting firms, and all internal agency  
12 communications including staff notes and memoranda related to the Water Master Plan and EIR  
13 and to compliance with CEQA as described above. Without such an order the Court will be  
14 without the whole record on which it may determine the issues in the case and LandWatch will  
15 be prejudicially denied due process, the right to evidence required to show error, and the right to  
16 carry out its duty to provide the Court with the whole record.

17  
18  
19 DATE: July 22, 2009

  
Cynthia Hawley, Counsel for Petitioner

1 MICHAEL R. JENCKS SBN 053822  
2 LAW OFFICES OF MICHAEL R. JENCKS  
3 4349 Old Santa Fe Road, #5  
4 San Luis Obispo, CA 93401  
5 Telephone (805) 548-0600  
6 Facsimile (805) 548-0601

7 CYNTHIA HAWLEY SBN 229135  
8 Post Office Box 29 (Mailing Address)  
9 1306 Tamson Drive, Suite 202 (Physical Address)  
10 Cambria, CA 93428  
11 Telephone (805) 927-6102  
12 Facsimile (805) 927-5220

13  
14 Counsel for Petitioner and Plaintiff

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN LUIS OBISPO  
SAN LUIS OBISPO BRANCH

16	LANDWATCH SAN LUIS OBISPO COUNTY	)	Case No. CV 070230
17	Petitioner,	)	
18	Vs.	)	PROPOSED ORDER TO COMPEL PRODUCTION
19	CAMBRIA COMMUNITY SERVICES	)	OF WHOLE ADMINISTRATIVE RECORD
20	DISTRICT	)	Public Resources Code §21167.6;
21	Respondent	)	Code of Civil Procedure §§1094.5 & 1094.6
22		)	Hearing date: August 11, 2009
23		)	Department No.: Paso Robles Department 2
24		)	Judge: Hon. Roger T. Picquet
25		)	Date action filed: October 27, 2008
26		)	Trial date: Not set

27 The motion by Petitioner LandWatch San Luis Obispo County for an order to compel  
28 Respondent Cambria Community Services District to produce the whole administrative record  
pursuant to Public Resources Code §21167.6 and Code of Civil Procedure §§1094.5 and 1094.6  
in the above captioned case was regularly heard at the above date and time. Appearing as  
attorneys were:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Michael McMahon, attorney for Respondent Cambria Community Services District

Cynthia Hawley, attorney for Petitioner LandWatch San Luis Obispo County  
Michael Jencks, attorney for Petitioner LandWatch San Luis Obispo County

Satisfactory proof having been made, and good cause appearing,

IT IS ORDERED that:

Respondent Cambria Community Services District shall produce the whole record as required by §21167.6(e) of the California Environmental Quality Act and Cal. Code of Civ. Procedure §§1094.5 and 1094.6 including but not limited to:

1. copies of all correspondence with consultants and other agencies including but not limited to the Army Corps of Engineers related to the Water Master Plan, the Water Master Plan Environmental Impact Report, and all data, studies, and reports on which the Water Master Plan and EIR relied;
2. all documents relied upon in preparation of the Water Master Plan and Environmental Impact Report including but not limited to all contracts and invoices for the production of the Water Master Plan and Water Master Plan EIR and for production of all data, studies, and reports on which the Water Master Plan and EIR relied; and
3. all internal agency communications, notes, and memoranda in all forms including but not limited to electronic communications, notes, and memoranda related to the Water Master Plan and the Environmental Impact Report and to compliance with the California Environmental Quality Act.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge Barry T. LaBarbera

**PROOF OF PERSONAL SERVICE**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Cynthia Hawley certifies:

I am an active member of the State Bar of California and am not a party to this action. My business address is 1306 Tamson Drive Suite 202 A, P.O. Box 29, Cambria, California 93428. On

July 23, 2009 I served the following document(s):

Notice of Motion and Motion to Compel Respondent to Produce the Whole  
Administrative Record; Points and Authorities; Proposed Order; and Exhibits

in person to:

Michael M. McMahon  
Carmel & Naccasha LLP  
1410 Marsh Street  
San Luis Obispo, CA 93401

Fax: 805-546-8015

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

Date: July 23, 2009

Cynthia Hawley  
Cynthia Hawley