

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

SAN LUIS REY MUNICIPAL WATER DISTRICT AND DOES 1-20

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

PALA BAND OF MISSIONS INDIANS

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**DOCKET
07-SPPE-2**

DATE SEP 14 2007
RECD. OCT 18 2007

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una Carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la Corte que le quede más cerca. Si no puede pagar la cuota de presentación, pide al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT, COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION
325 South Melrose
Vista, 92081

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Walter E. Rusinek (Bar # 148438) 530 B Street, Suite 2100 619-238-1900
Procopio Cory Hargreaves & Savitch LLP San Diego, CA 92101

DATE: September _____, 2007
(Fecha)

Clerk, by _____, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010))
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

[REDACTED]

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.80 (authorized person)
 other (specify):
4. by personal delivery on (date):

PROCOPIO CORY HARGREAVES & SAVITCH

Walter E. Rusinek (Bar # 148438)

530 B Street, Suite 2100

San Diego, CA 92101-4469

Telephone: (619) 238-1900

Facsimile: (619) 235-0398

Attorneys for Petitioner PALA BAND OF MISSION INDIANS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION

PALA BAND OF MISSION INDIANS

Petitioner and Plaintiff,

v.

SAN LUIS REY MUNICIPAL WATER DISTRICT and DOES 1-20

Respondents and Defendants,

DOES 1-20

Real Parties in Interest.

Case No.:

VERIFIED PETITION FOR WRIT OF MANDATE (C.C.P. §§ 1085, 1094.5); COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Date:
Time:
Dept.:
Judge:

Petitioner and Plaintiff the Pala Band of Mission Indians ("Petitioner" or "Pala Band"), for causes of action against Respondent the San Luis Rey Municipal Water District ("Respondent" or "SLRMWD"), petitions and complains as follows:

INTRODUCTION

1. Petitioner Pala Band is a federally recognized Indian tribe whose Reservation is located in northeastern San Diego County, east of Interstate 15 along State Route 76. The Pala Band's Reservation adjoins the current service area boundaries of the SLRMWD, and the main access to the Reservation is along State Route 76 which runs through Respondent's district boundaries. The "Project" that was the subject of the Program Environmental Impact Report ("PEIR") prepared by Respondent, will directly harm the Pala Band by impacting air quality, water quality, traffic and safety, biological resources, aesthetics, visual, cultural, historic and

1 other resources, land uses, and other important values both on the Reservation and in the area
2 from the Reservation to Interstate 15 where the Pala Band has interests. The relief sought in this
3 action would redress those injuries.

4 2. Respondent and Defendant SLRMWD is a public agency, specifically a municipal
5 water district organized and operating pursuant to California Water Code §§ 71000 *et seq.*,
6 SLRMWD currently does not supply water or wastewater services to users within its service area
7 boundaries, but merely manages groundwater resources. Respondent is not a member of the San
8 Diego County Water Authority ("CWA") and the SLRMWD receives no imported water.
9 Respondent has prepared the PEIR in an effort to activate its latent powers in an attempt to begin
10 providing water, wastewater and recycled water services within and outside its existing service
11 area.

12 3. Petitioner is unaware of the true names, identities or capacities of those parties
13 sued herein as Respondents/Defendants DOES 1-20, inclusive, and Real Parties in Interest
14 DOES 21-40. Petitioner therefore sues said parties by such fictitious names. Petitioner is
15 informed and believes and thereon alleges that those parties sued herein as DOES 1-20,
16 inclusive, are Respondents/Defendants and are responsible in some way for the issuance of the
17 approval(s) at issue in this case. Petitioner is informed and believes and thereon alleges that those
18 parties sued herein as DOES 21-40, inclusive, are Real Parties in Interest with some interest in
19 this matter. Petitioner will seek leave to amend this petition to set forth the true names and
20 capacities of these Respondents/Defendants and Real Parties in Interest if and when they have
21 been ascertained.

22 4. This Court has jurisdiction over this matter pursuant to Code of Civil Procedure
23 Sections 1085, *et seq.*, and the California Environmental Quality Act ("CEQA"), Public
24 Resources Code Sections 21100, *et seq.*

25 5. Venue in this Court is proper pursuant to Code of Civil Procedure Section 394, in
26 that Respondent is located within the County of San Diego.

27 **BACKGROUND**

28 6. Respondent claims that, in response to the requests of its "constituents" and

1 potential users outside its current boundaries that the SLRMWD provide additional water,
2 wastewater and recycled water services, Respondent sought to activate its latent powers by
3 obtaining the approval of the San Diego Local Agency Formation Commission ("LAFCO") for a
4 sphere of influence change ("SOF"). The PEIR acknowledges that without LAFCO approval, the
5 Project cannot be implemented.

6 7. Respondent prepared a "Master Plan for Water, Waste Water, and Recycled
7 Water Services" ("Master Plan"). In the Master Plan, Respondent proposed to expand its service
8 area boundaries and to construct extensive improvements to allow Respondent to provide water
9 and wastewater services to numerous proposed developments located both inside and outside
10 Respondent's existing service area along Interstate 15 and east along State Route 76. One of
11 these proposed developments, the Warner Ranch project, would be located adjacent to the Pala
12 Band's Reservation. Other proposed projects to be served by the SLRMWD are located near the
13 Pala Reservation along State Route 76. Many of the proposed developments proposed to be
14 served under the Master Plan are not included in the current San Diego County General Plan
15 ("General Plan") or the County's draft General Plan 2020 ("GP 2020") update of the General
16 Plan.

17 8. Respondent claims that, in December of 2006, it prepared a revised "Master Plan
18 for Water, Wastewater and Recycled Water Services, a Final Report (Annexed Area Option),"
19 which it identifies as the "Modified Master Plan." Respondent claims that the "Modified Master
20 Plan" differs from the "Master Plan" because it does not include the provision of water or
21 wastewater services to the Campus Park, Campus Park West, or Lake Rancho Viejo
22 developments, but would provide water to the Pala Canyon development outside the SLRMWD
23 boundaries.

24 9. Respondent subsequently issued a draft PEIR ("DPEIR") under the California
25 Environmental Quality Act ("CEQA") for the Master Plan for public comment on March 16,
26 2007, for a period of 30 days. Petitioner submitted extensive comments on the DPEIR
27 identifying significant inadequacies in the DPEIR. Other comments pointed out additional
28 inadequacies in the DPEIR. All factual and legal objections asserted herein were raised by

1 Petitioner or others prior to Respondent's certification of the PEIR.

2 10. Respondent's ability to implement either the Master Plan or the Modified Master
3 Plan is dependent on it receiving (a) approval from LAFCO for the SOI change and (b) water
4 from the CWA aqueduct which passes through the current boundaries of the SLRMWD.
5 However, the CWA has stated in a letter to Respondent that the CWA will not allow the
6 Respondent to become a member of the CWA as required to receive water from the CWA. The
7 CWA also stated that it would oppose any attempt by Respondent to seek water directly from the
8 Metropolitan Water District ("MET"), which provides water to the CWA. Although Respondent
9 has no ability to obtain the water necessary to implement the Project, it continues to improperly
10 identify itself as a "lead agency" under CEQA.

11 11. On August 15, 2007, the Board of the SLRMWD certified the final PEIR
12 ("PEIR"), and adopted: (a) Findings determining that the administrative record for the Project
13 contained substantial evidence in support of the Findings, (b) a Statement of Overriding
14 Considerations ("SOC"), and (c) a Mitigation Monitoring and Reporting Program ("MMRP").
15 Respondent also approved and adopted the Modified Master Plan as being the environmentally
16 superior alternative to the Master Plan. The Modified Master Plan is referred to below as the
17 "Project."

18 12. The SLRMWD then issued a Notice of Determination under Public Resources
19 Code Section 21152, dated August 16, 2007 ("NOD"). The NOD described the "Project" under
20 CEQA as the "adoption of a Master Plan for Water, Wastewater and Recycled Water Services by
21 a local governmental agency to serve an approximately 10.6 square mile area along Highway 76
22 just east of Interstate I-15." The NOD identified the SLRMWD as the "lead agency."

23 13. Petitioner hereby seeks the issuance of a writ of mandate and/or injunctive or
24 declaratory relief to require Respondent to rescind its illegal certification of the PEIR because it
25 cannot be a lead agency under CEQA. In the alternative, Respondent should be ordered to
26 rescind its certification of the PEIR, the Findings, SOC, MMRP and the Project.

27 14. Petitioner has exhausted all available administrative remedies required to be
28 exhausted by Public Resources Code Section 21177 or any other provisions of law.

1 15. Petitioner has complied with the requirements of Public Resources Code Section
2 21167.5 by mailing a written notice of commencement of this action to Respondent. A true and
3 correct copy of that notice is attached hereto as Exhibit A.

4 16. Petitioner has advised Respondent that Petitioner has elected to prepare the record
5 of proceedings relevant to the approval of the Project pursuant to Public Resources Code Section
6 21167.6. A true and correct copy of that notice is attached hereto as Exhibit B.

7 17. Petitioner has complied with Public Resources Code Section 21167.7 by serving a
8 copy of the original petition on the California Attorney General. A true and correct copy of the
9 notification is attached hereto as Exhibit C.

10 18. Petitioner has no adequate remedy at law unless the Court grants the requested
11 writ of mandate. In the absence of such remedy, Petitioner will suffer irreparable harm because
12 of the significant adverse environmental impacts generated by the actions that will occur
13 pursuant to the Project.

14 **FIRST CAUSE OF ACTION**

15 **(Writ of Mandate—Violation of CEQA)**

16 19. Petitioner incorporates by reference paragraphs 1 through 18 as if fully set forth
17 herein.

18 20. Respondent's actions in certifying the PEIR, adopting the Findings, the SOC, and
19 the MMRP, and approving the Project constituted a prejudicial abuse of discretion in that
20 Respondent failed to proceed in the manner required by law and the decision is not supported by
21 substantial evidence in the record, as more specifically set forth below.

22 21. Respondent's action in certifying the PEIR was improper because the SLRMWD
23 cannot be a lead agency under CEQA for the Project. The CEQA Guidelines define the "lead
24 agency" as the public agency that will carry out the project. 14 C.C.R. § 15051. Respondent
25 cannot carry out the Project because the CWA has refused to provide Respondent with the water
26 necessary to implement the Project, and Respondent cannot identify an alternative source of
27 water that would allow it to carry out the Project.

28 22. Respondent's actions in approving the Project were predetermined, *post-hoc*

1 rationalizations of actions it had determined to take prior to approval of the Project.

2 23. The PEIR improperly defined the objective of the Project too narrowly, describing
3 the objective as providing water and wastewater services to address the projected future growth
4 projections of its constituents and others, even though the projects for which the water was
5 requested violate the existing County General Plan and GP 2020.

6 24. The PEIR violated CEQA because it failed to provide an accurate and consistent
7 description of a proposed Project, which alternated from the Master Plan to the Modified Master
8 Plan. The NOD states that the Project approved was the Master Plan, but the Findings state that
9 the Project approved was the Modified Master Plan. This changing description of the proposed
10 Project made it impossible for the PEIR to consistently and accurately describe all of the
11 components of the Project. The PEIR also failed to adequately describe proposed phasing of
12 Project elements.

13 25. The PEIR's land use analysis was incomplete, failed to adequately disclose all
14 significant land use inconsistencies with adopted plans and policies, and was unsupported by the
15 evidence.

16 26. The PEIR failed to establish proper baselines to evaluate the numerous impacts of
17 the proposed Project.

18 27. The PEIR failed to adequately analyze and disclose impacts to community
19 character and to existing community plans.

20 28. The PEIR failed to provide substantial evidence to support the impermissible
21 conversion of prime agricultural lands in violation of state law.

22 29. The PEIR failed to adequately analyze and disclose the impacts that decreased
23 water supplies would have on Respondent's ability to implement the proposed Project, and failed
24 to evaluate future impacts caused by projected decreases in rainfall and water supply.

25 30. The PEIR failed to adequately analyze and disclose the hydrological and water
26 quality impacts that would be caused by the Project, including but not limited to, reasonably
27 foreseeable impacts involving alterations in natural drainage patterns, increases in the discharge
28 of pollutants to water from the Project and its related developments, the management of treated

1 wastewater, the discharge of treated water into the San Luis Rey River, and impacts to
2 groundwater from the operation of the percolation ponds and other construction activities
3 included in the Project.

4 31. The PEIR failed to adequately analyze and disclose transportation and traffic
5 impacts that would be caused by the Project, including, but not limited to, reasonably foreseeable
6 impacts to traffic (from construction and increased traffic, including additional traffic delays,
7 overcrowded roads and intersections, additional accidents, reduced access, and shifts in travel
8 routes); failed to consider impacts to regionally significant arterials, freeways, ramps, and
9 interchanges; and, relied on faulty models and data and unsupported assumptions, including
10 underestimating the increase in vehicle miles traveled generated by the Project.

11 32. The PEIR ignored or improperly considered the Project's contribution to
12 cumulative impacts as insignificant.

13 33. The PEIR failed to adequately analyze and disclose all noise impacts caused by
14 the Project and by cumulative projects, especially the noise impacts on areas designated as "open
15 space" or "sensitive" habitats. Because the PEIR underestimated the amount of traffic that the
16 Project would generate, it also failed to adequately assess the increased noise from this traffic.

17 34. The PEIR failed to adequately analyze and disclose reasonably foreseeable
18 impacts to air quality, did not discuss impacts in a manner that allowed a non-technical reader to
19 assess the validity of the conclusions, failed to substantiate claims with adequate documentation,
20 and failed to identify sensitive receptors for purposes of the air quality impacts analysis.

21 35. The PEIR failed to consider the cumulative impacts caused by the generation of
22 air pollutants, including greenhouse gases, within the Project area.

23 36. The PEIR failed to properly evaluate the air quality impacts from increased traffic
24 and traffic congestion caused by the construction of the Project infrastructure and the residential
25 developments induced by the construction of the project infrastructure, in part, by
26 underestimating the significant increase in vehicle miles traveled that would be caused by the
27 Project.

28 37. The PEIR failed to adequately analyze and disclose impacts to biological

1 resources, including, but not limited to, sensitive plant and animal species, wildlife habitats,
2 wildlife corridors, wetlands, other waters of the United States, and waters of the state. The PEIR
3 failed to provide an adequate analysis based on the improper claim that such analysis is not
4 required in a PEIR and that additional analysis would be conducted later.

5 38. The PEIR failed to adequately analyze and disclose growth-related impacts,
6 including the growth inducement impacts of the Project.

7 39. The PEIR failed to adequately analyze and disclose impacts to public facilities
8 and services, including, but not limited to, schools, fire stations, and police stations, because it
9 improperly claimed that those are project-specific impacts that need not be addressed in the
10 PEIR.

11 40. The PEIR failed to adequately analyze and disclose the cumulative impacts of the
12 Project and other projects that are either existing, approved, planned, or reasonably foreseeable,
13 including, but not limited to, impacts to air quality, water quality and supply, biological
14 resources, traffic, noise, aesthetics, land use and community character, geology, natural resources
15 and cultural and historic resources.

16 41. The PEIR failed to identify relevant foreseeable projects for purposes of the short-
17 term and the long-term cumulative impacts analyses.

18 42. The PEIR improperly segmented the Project by piecemealing or otherwise
19 avoiding reasonably foreseeable impacts, separately focusing on isolated parts of the whole
20 project, and by deferring study of impacts from the Project until the future.

21 43. The PEIR failed to consider adequately the significant irreversible effects of the
22 Project in violation of Section 15126(f) of the CEQA Guidelines, including, but not limited to,
23 traffic circulation impacts, landform alteration and a reduction in visual quality due to grading,
24 cut and fill slopes, and construction of structures; loss of natural, undeveloped open space and its
25 associated visual and biological resources; increased erosion rates and the potential to exacerbate
26 the loss of native top soils due to grading, compaction, and construction of impervious surfaces;
27 cultural degradation of existing cultural resources; and the change in the existing community
28 character from open space to other uses.

1 44. The PEIR impermissibly defined the Project's "objectives" in a manner that
2 precluded the adequate identification and discussion of reasonable alternatives.

3 45. The PEIR failed to analyze adequately a reasonable range of alternatives to the
4 Project, which could reduce Project-related impacts, or to evaluate the comparative merits of the
5 alternatives. The PEIR failed to adopt feasible alternatives, including, but not limited to,
6 alternatives requiring less impacts that meet some or all of the Project objectives.

7 46. The PEIR failed to adequately describe and analyze reasonable mitigation
8 measures that could eliminate or substantially lessen significant direct, indirect, and cumulative
9 impacts of the Project. The PEIR and the MMRP improperly deferred mitigation, failed to
10 adequately examine additional feasible mitigation measures, and failed to include enforceable
11 mitigation measures with respect to impacts in numerous categories including, but not limited to,
12 land use, geology/soils, traffic, noise, air and water quality, biological resources, aesthetics,
13 archeology/cultural resources, and ethnohistory and Native American interests. The PEIR
14 impermissibly classified as "infeasible" mitigation for impacts caused by the fact that the Project
15 violates the General Plan, claiming that such mitigation is infeasible because only the County
16 can amend the General Plan. Amendment of the General Plan is not a mitigation measure for
17 impacts caused by violations of the General Plan.

18 47. The PEIR improperly incorporated documents by reference without making those
19 documents easily available and without properly summarizing the findings of the documents in
20 the PEIR.

21 48. Respondent's responses to comments were inadequate, incomplete, and failed to
22 provide good faith, reasoned responses supported by substantial evidence to significant issues
23 raised by public agencies and members of the public concerning the significant adverse impacts
24 of the Project. Respondent's repeated argument that impacts need not be evaluated because the
25 document was a PEIR was used as a means of avoiding adequate analysis.

26 49. Respondents failed to adopt a legally adequate SOC given the numerous
27 significant unavoidable impacts identified in the PEIR and the fact that the residential
28 development projects identified in the PEIR are not in compliance with the General Plan or with

1 the draft GP 2020. The SOC's alleged "benefits" of the Project are illusory, not supported by
2 substantial evidence in the record, rely on incorrect and outdated information and assumptions,
3 are without legal basis or are in violation of the law, and include as benefits of the Project
4 developments that are not assessed for impacts as part of the Project, including the proposed
5 Gregory Canyon landfill.

6 50. Respondents failed to adopt legally adequate Findings as required by law and the
7 adopted Findings merely repeat the inadequate analysis in the PEIR and are not supported by
8 substantial evidence in the record.

9 51. Respondent's certification of the PEIR and approval of the Findings, SOC,
10 MMRP and the Project constituted a prejudicial abuse of discretion because Respondent failed to
11 proceed in the manner required by law, and these decisions were not supported by substantial
12 evidence in the record.

13 52. Petitioner has performed all conditions precedent to the filing of this Verified
14 Petition, and has exhausted all possible administrative remedies.

15 53. Petitioner is directly interested in the issuance of a writ of mandate by virtue of
16 the facts set forth above in that Petitioner will be adversely affected by the action of Respondent.

17 54. Petitioner does not have a plain, speedy and adequate remedy at law, other than
18 this proceeding, to compel Respondent to perform its mandatory duty to comply with CEQA. At
19 all times mentioned herein, Respondent has been able to perform all duties imposed on it by law,
20 but notwithstanding such ability and Petitioner's demands, Respondent has failed and continues
21 to fail to perform such duties.

22 55. Respondent's failure to fulfill its duty to comply with CEQA requires this Court
23 to issue a writ of mandate pursuant to Code of Civil Procedure sections 1085 and 1094.5, *et seq.*
24 and Public Resource Code sections 21168, 21168.5, 21168.9 directing SLRMWD to set aside its
25 approval of the PEIR and the Project.

26 **SECOND CAUSE OF ACTION**

27 **(Injunctive Relief)**

28 56. Petitioner incorporates by reference paragraphs 1 through 55 as if fully set forth

1 herein.

2 57. The conduct of Respondent, unless and until enjoined and restrained by this
3 Court, will cause irreparable injury to Petitioner, and to the public in general, because the Project
4 will result in irreversible significant adverse environmental impacts. There will be no adequate
5 remedy at law for Petitioner, or the public, if the Project is implemented.

6 58. Petitioner is entitled to a temporary, preliminary and permanent injunction
7 prohibiting Respondent and Real Parties from taking any further action to implement the Project.

8 **THIRD CAUSE OF ACTION**

9 **(Declaratory Relief)**

10 59. Petitioner incorporates by reference paragraphs 1 through 58 as if fully set forth
11 herein.

12 60. Actual controversies have arisen and now exist between Petitioner and
13 Respondent regarding Respondent's approval of the PEIR and the Project in violation of CEQA
14 and the General Plan. Accordingly, declaratory relief is appropriate and necessary to determine
15 the legality of Respondent's actions.

16 61. A judicial determination is appropriate at this time and under the circumstances so
17 that Petitioner may ascertain its rights and so that the public's interest in this matter may be
18 resolved.

19 **PRAYERS FOR RELIEF**

20 A. For a writ of mandate directing Respondent to rescind its approvals of the
21 PEIR, the Findings, the SOC, the MMRP, and the Project and to not approve the existing or any
22 revised Master Plan or Modified Master Plan unless and until such time as Respondent complies
23 with the requirements of CEQA;

24 B. For a temporary restraining order, preliminary injunction, and/or
25 permanent injunction prohibiting Respondent from taking any further action to implement the
26 Master Plan or the Modified Master Plan until such time as the Respondent complies with
27 CEQA;

28 C. For a declaration that Respondent's action in approving the PEIR, the

1 Findings, the SOC, the MMRP, and the Project violated CEQA;

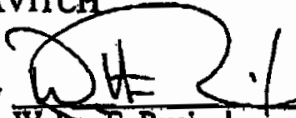
2 D. For attorneys' fees and the costs of suit; and

3 E. For such other and further relief as the Court shall deem appropriate.

4 Dated: September 13, 2007

5 Respectfully submitted,

6 PROCOPIO CORY HARGREAVES &
7 SAVITCH

8 By 
9 Walter E. Rusinek
10 Attorneys for Petitioner
11 PALA BAND OF MISSION INDIANS

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

VERIFICATION

I have read the foregoing Verified Petition for Writ of Mandate; Complaint for Declaratory Relief and know its contents.

I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an official of the Pala Band of Mission Indians, a party to this action, and I am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing document(s). I am informed and believe and on that ground allege that the matters stated in it are true.

I am one of the attorneys for _____ a party to this action. Such party is absent from the County San Diego, California, where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document(s). I am informed and believe that on that ground allege that the matters stated in it are true.

Executed on the 13 day of September, 2007 at San Diego County, California.

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

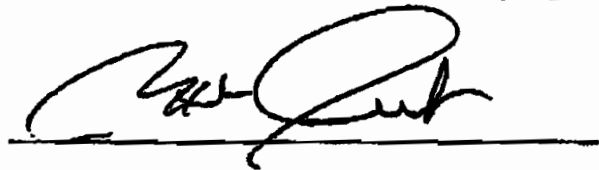


EXHIBIT A



Procopio, Cory, Hargreaves & Savitch LLP

Walter E. Rusinek
Direct Dial: (619) 525-3812
E-mail: wer@procopio.com

September 12, 2007

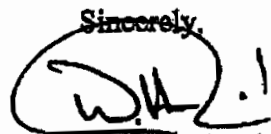
VIA E-MAIL AND U.S. MAIL

Board of Directors
San Luis Rey Municipal Water District
5328 Highway 76
Fallbrook, CA 92028

Re: Notice of Commencement of Action Regarding the San Luis Rey Municipal
Water District's Certification of a Program Environmental Impact Report
("PEIR")

To Whom It May Concern:

Please take notice that the Pala Band of Mission Indians intends to commence an action in California Superior Court under the California Environmental Quality Act ("CEQA") against the San Luis Rey Municipal Water District to challenge the District's Certification of the PEIR and its approval of Findings, and a Statement of Overriding Concerns, and the "Master Plan for Water, Wastewater and Recycled Water Services" on August 15, 2007. Among other things, the petition will seek to vacate these actions and to enjoin the District from taking any further steps to implement the project without proper CEQA review.

Sincerely,

Walter E. Rusinek

WER:mkk

cc: Susan M. Trager Esq.

Kozlak, Mary K.

From: Kozlak, Mary K.
Sent: Wednesday, September 12, 2007 12:01 PM
To: 'secretary@sanluisreymwd.com'; 'Susan M. Trager'
Cc: Rusinek, Walter E.
Subject: September 12, 2007 Notice of Commencement Letter

Attachments: 9-12-07 Notice of Commencement Letter.pdf



9-12-07 Notice
Commencement

Attached please find Walter E. Rusinek's Notice of Commencement of Legal Action Under CEQA Letter dated September 12, 2007.

Mary K. Kozlak
Legal Secretary for John J. Lormon and Walter E. Rusinek

Procopio Cory Hargreaves & Savitch LLP
530 B Street, Suite 2100
San Diego, CA 92101-4469
direct: (619) 525-3839
fax: (619) 235-0398
www.procopio.com

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH LLP, 530 "B" Street, Suite 2100, San Diego, California 92101. On September 12, 2007, I served the within documents:

NOTICE OF COMMENCEMENT OF ACTION REGARDING THE SAN LUIS REY MUNICIPAL WATER DISTRICT'S CERTIFICATION OF A PROGRAM ENVIRONMENTAL IMPACT REPORT ("PEIR")

by transmitting via facsimile number (619) 235-0398 the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the transmission confirmation report is attached hereto.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

by placing the document(s) listed above in a sealed overnight envelope and depositing it for overnight delivery at San Diego, California, addressed as set forth below. I am readily familiar with the practice of this firm for collection and processing of correspondence for processing by overnight mail. Pursuant to this practice, correspondence would be deposited in the overnight box located at 530 "B" Street, San Diego, California 92101 in the ordinary course of business on the date of this declaration.

by e-mailing the document(s) listed above to the person(s) at the address(es) set forth below.

Board of Directors	Susan M. Trager, Esq.
San Luis Rey Municipal Water District	Law Offices of Susan M. Trager
5328 Highway 76	19712 MacArthur Blvd., Suite 120
Fallbrook, CA 92028	Irvine, CA 92612
E-mail: secretary@sanluisreymwd.com	E-mail: Susan M. Trager
	(susan@tragerlaw.com)

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 14, 2007, at San Diego, California.

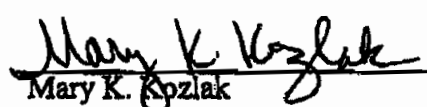

Mary K. Kozlak

EXHIBIT B

PROCOPIO CORY HARGREAVES & SAVITCH

1 **Walter E. Rusinek (Bar # 148438)**
530 B Street, Suite 2100
2 **San Diego, CA 92101-4469**
Telephone: (619) 238-1900
3 **Facsimile: (619) 235-0398**

4 **Attorneys for Petitioner PALA BAND OF MISSION**
INDIANS

5
6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION**

10 **PALA BAND OF MISSION INDIANS**

11 **Petitioner and Plaintiff,**

12 **v.**

13 **SAN LUIS REY MUNICIPAL WATER**
DISTRICT and DOES 1-20

14 **Respondents and Defendants,**

15 **DOES 1-20**

16 **Real Parties in Interest.**

Case No.:

NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD

Date:
Time:
Dept.:
Judge:

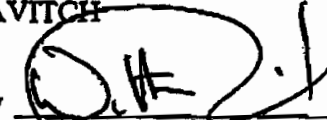
17 **BY THIS NOTICE, Petitioner Pala Band of Mission Indians gives notice that Petitioner**
18 **elects to prepare the administrative record in the above-entitled action.**

19
20
21 **Dated: September 12, 2007**

22 **Respectfully submitted,**

23 **PROCOPIO CORY HARGREAVES &**
24 **SAVITCH**

25 **By**



26 **Walter E. Rusinek**
27 **Attorneys for Petitioner**
28 **PALA BAND OF MISSION INDIANS**

EXHIBIT C

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): PROCOPIO CORY HARGREAVES & SAVITCH LLP Walter B. Rusinek (Bar # 148438) 530 B Street, Suite 2100 San Diego, CA 92101-4469 TELEPHONE NO.: (619) 238-1900 FAX NO.: (619) 235-0398 ATTORNEY FOR (Name): Petitioner PALA BAND OF MISSION INDIANS		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 325 South Melrose MAILING ADDRESS: 325 South Melrose CITY AND ZIP CODE: Vista, 92081 BRANCH NAME: North County Division		
CASE NAME: Pala Band of Mission Indians v. San Luis Rey Municipal Water District		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	CASE NUMBER: JUDGE: DEPT:
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (08) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Other P/DP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (46) <input type="checkbox"/> Other P/DP/DWD (23)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-P/DP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DP/DWD tort (36)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (38) <input type="checkbox"/> Other employment (15)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **Three**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **September 14, 2007**
Walter E. Rusinek, Esq. (Bar # 148438)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rules.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 3

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH LLP, 530 "B" Street, Suite 2100, San Diego, California 92101. On September 14, 2007, I served the within documents:

VERIFIED PETITION FOR WRIT OF MANDATE; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF (C.C.P. §§ 1085, 1094.5)

by transmitting via facsimile number (619) 235-0398 the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. A copy of the transmission confirmation report is attached hereto.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Diego, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

by placing the document(s) listed above in a sealed overnight envelope and depositing it for overnight delivery at San Diego, California, addressed as set forth below. I am readily familiar with the practice of this firm for collection and processing of correspondence for processing by overnight mail. Pursuant to this practice, correspondence would be deposited in the overnight box located at 530 "B" Street, San Diego, California 92101 in the ordinary course of business on the date of this declaration.

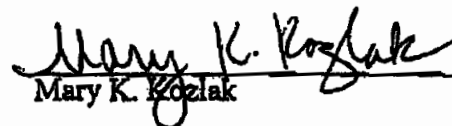
by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

California Attorney General
Service Deputy
300 South Spring Street
Los Angeles, CA 90013

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 14, 2007, at San Diego, California.


Mary K. Kozlak