

Native Americans Entitled to \$239,620 in Fees By Confering a Public Benefit

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An environmental group and a band of Native Americans successfully challenged various aspects of a solid waste facility landfill project in San Diego County. The Fourth Appellate District held that the claimants were entitled to \$239,620 in attorneys' fees under the Private Attorney General Doctrine, Code of Civil Procedure section 1021.5.

The City of Oceanside, RiverWatch and the Pala Band of Mission Indians filed petitions in mandate against the County of San Diego Department of Environmental Health ("DEH") contending the DEH violated, among other statutes, the California Environmental Quality Act ("CEQA").

1. First, the DEH argued that Claimants experienced limited success since the petition was denied in part and granted in part by the trial court, and thus RiverWatch and Pala Band were not prevailing parties under the statute. But the court disagreed, noting that RiverWatch and Pala Band prevailed on three significant issues.
2. DEH also argued Claimants failed to show that the cost of their victory was "out of proportion to [their] individual stake in the matter," one of the requirements for a fee award under section 1021.5. DEH claimed the litigation costs did not outweigh Claimant's personal interests and they, therefore, failed to advance a significant public interest. The court disagreed, however, finding evidence in the record that Pala Band's actions protected the interests of all Luiseno people by protecting sacred sites and protecting their ability to engage in their religion. In fact, the court held the *burden shifted* to the DEH and that they failed to prove the victory involved only Claimant's individual stake in the matter.
3. Finally, DEH argued Claimants failed to show "the litigation has had a beneficial impact on the public as a whole," another requirement before a claimant is entitled to its section 1021.5 fees. But again, the court found the action addressed traffic impacts from the project, involved the water supply and generally ensured that environmental impacts from the project were adequately mitigated.