

Press Release

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[For Immediate Release](#)

EMWD successful in Clean Water Act lawsuit

Perris, CA (March 24, 2016)—Eastern Municipal Water District (EMWD) announced today that it successfully defended itself in a lawsuit brought forward by a self-proclaimed environmental group that falsely claimed EMWD violated the Clean Water Act.

California River Watch – a non-profit organization that funds its activities through lawsuits against public agencies and private organizations for alleged violations of the Clean Water Act, had filed a lawsuit against EMWD in 2015, claiming that EMWD’s sewer system was harming the environment.

In dismissing the suit this week, River Watch and its founder and lawyer, Jack Silver, agreed to drop all claims against EMWD and agreed not to file suit against EMWD for a minimum of eight years. Silver has filed more than 100 such lawsuits on behalf of River Watch. Federal tax returns show that River Watch pays a majority of its fees collected to Silver.


Silver and River Watch frequently file lawsuits against public agencies for alleged violations of the Clean Water Act. Those agencies often reach settlements in order to avoid lengthy and costly legal battles to defend themselves.

“It is disappointing, but not uncommon, that an individual would attempt to exploit a loophole in the Clean Water Act by targeting public agencies for personal gain,” EMWD President Randy Record said. “Our management and Board are committed to fighting on behalf of our ratepayers based on sound principle. We are extremely pleased that we prevailed.”

Clean Water Act cases are historically settled without regards to their merits, for several reasons. The fee-shifting provision in the statute has been interpreted by the courts to unilaterally favor prevailing plaintiffs. The Clean Water Act is a strict liability statute (no fault is needed to determine liability) and even hyper-technical, purely paperwork violations are enough to establish liability.

In successfully defending itself, EMWD was able to provide extensive documentation that the claims presented had no merit. Those claims alleged that EMWD’s sewer system was leaking and harming the environment.





“This lawsuit was nothing more than an attempt to unjustly take money from our ratepayers by trying to compel us into a quick settlement,” EMWD General Manager Paul Jones said. “EMWD is an environmentally responsible organization and we work diligently to ensure our systems are managed and maintained to the highest industry and regulatory compliance standards. We thought it was important to show that the plaintiff’s claims were baseless and we were determined to fight these allegations on behalf of our ratepayers.”

The Clean Water Act provides a Citizen’s Suit provision that allows for individuals or organizations to file lawsuits alleging damages if an agency’s actions result in any harm to the environment or waterways. Financial awards paid through the lawsuit are intended to go toward restoration and legal fees. However, River Watch typically pays a majority of its fees toward its legal counsel, not the environment.

EMWD has a high standard of compliance and its sanitary sewer overflow (SSO) program is just one example of its commitment to go beyond regulatory requirements. EMWD recognizes the potential impacts that an SSO can have to the environment and takes every precaution possible to keep its collection systems clean and fully functioning while responding to SSOs, most unavoidable, in a timely and effective manner.

EMWD continues to evaluate ways to prevent SSOs in order to improve its overall program. EMWD reports transparently to the Region Water Quality Control Boards (Regional Board) and records indicate that EMWD has one of the best performance records in both the San Diego and Santa Ana Regional Board areas.

In the event that EMWD has an SSO, it reports those actions to the Regional Board immediately, which may issue fines or other remediation measures. If the Regional Board issues a fine, outside organizations may not seek damages. However, when there is no fine issued, the Citizen’s Suit provision opens the door for other entities to seek financial compensation for damages.


EMWD is actively supporting Congressman Duncan Hunter’s Clean Water Act Citizen Suit Reform Act (HR 3533) to begin addressing the loophole in the Clean Water Act.

Silver’s actions related to Clean Water Act lawsuits have been called into question by the United States Department of Justice, former River Watch board members, various media outlets and dozens of responsible public agencies throughout California.

“The Eastern Municipal Water District is widely viewed as a model waste water treatment and water supply agency,” Chris Carr, chair of Morrison & Foerster’s Environment and Energy Group and lead counsel in the case, said. “This was a different sort of case because our client refused to capitulate to the Clean Water Act citizen suit extortion racket that has for so long prevailed in California. As a leader in the waste water treatment and water supply field, EMWD felt it had an obligation to its rate payers, other agencies, and the California public at large not to perpetuate the perverse sue-and-settle dynamic that has prevailed for so long.”

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EMWD is the freshwater, wastewater service and recycled water provider to a 555-square mile area from Moreno Valley southward along the I-215 corridor to Temecula and eastward to Hemet and San Jacinto. Approximately 795,000 people live and work in this area. In addition to its own water customers, EMWD supplements water to six local water agencies and municipalities that have their own water departments. EMWD operates four water reclamation facilities and treats some 46 million gallons of wastewater daily. More information can be found at www.emwd.org.