



EDC COMMENTS ON ATTORNEYS' FEES AGREEMENTS

EDC has represented two local Santa Barbara non-profit groups who opposed an application by Plains Exploration and Production, Inc (PXP) to drill for oil offshore of Lompoc at Tranquillon Ridge. This representation resulted in an innovative settlement agreement which EDC and its clients believe will lead to the end of oil drilling in the Santa Barbara Channel.

Much has recently been made of the fact that part of that settlement agreement required PXP to pay a portion of the legal fees incurred by EDC's clients in challenging the permit application and then in creating and advocating for the settlement itself. An attorneys' fees clause in such settlement agreements is a routine part of how environmental law firms like EDC operate. It would not be news if not for the political maelstrom surrounding this particular case.

Most federal and state environmental laws contain specific provisions entitling a successful plaintiff enforcing the law to recover attorneys' fees against the defendant. When litigation is successful, attorneys' fees are usually awarded as a part of the court's judgment. Without such provisions, it would be practically impossible for public interest law firms like EDC to do our work and pay even meager salaries to our hard working legal staff. These provisions encourage enforcement of the law without the need to significantly increase governments' legal staffs. When cases are settled rather than litigated, the defendant usually agrees to pay those fees as a part of the deal. Otherwise, our non-profit clients would remain responsible for this cost.

Like every other public interest law firm, EDC's annual budget routinely includes projected "attorney fee awards." Last year, at EDC these included payments for winning other oil-related cases, a pesticide regulatory enforcement action, and closing down a toxic dump. As part of the Tranquillon Ridge settlement, PXP agreed to reimburse EDC up to \$100,000 in fees and costs incurred in representing our clients' interests. The negotiated amount, in this case, turned out to be considerably less than EDC's unpaid fees for three years of work opposing the original project and then negotiating a settlement that promises significant benefits to our community and the state. These payments were fully disclosed in EDC'S annual audited financial statements and in required State filings.

The law provides that our work for the common good will be paid for by defendants when we are successful. A settlement which achieves the goals of a lawsuit is often better for all concerned than a long trial. These settlements almost always require the payment of legal fees which would otherwise have been awarded by a court. Accepting such fees does not change the EDC's mission or our fervor for environmental protection, or our commitment to serving California's Central Coast with high quality legal services.