

# **SUMMARY OF COSTS AND ATTORNEY’S FEES AWARDED UNDER CCP SECTION 1036 FOLLOWING THE T5 WELL JUDGMENT**

## **1. Court’s Ruling on Attorney’s Fees for T5 Well Litigation**

Plaintiffs sought \$632,470.00 in attorney’s fees related to taking of T5 Well easement.

The Trial Court awarded Plaintiffs \$48,614.00 in attorney’s fees on July 8, 2024.

The Trial Court’s rationale for rejecting Plaintiffs’ request for \$632,470.00 in attorney’s fees was based in part on the following:

- The Court of Appeals found that most of the Plaintiffs’ legal theories at trial were erroneous, and therefore, attorney fees spent promoting those legal theories at trial were not recoverable:

“Accordingly, when the trial court revisits attorney fees at the conclusion of the proceedings on remand, it should view with extreme skepticism fees associated with the plaintiffs’ legally untenable theories that the District ‘took,’ and they were therefore entitled to compensation for, the ‘T-5 well’ and all the water that has been, and can be, drawn through that well.” *Moores v. IBWD*, (2021) Appellate Decision at fn. 29

- That the Plaintiffs’ “level of success” in the litigation was minimal recovering only \$25,000 after seeking damages at trial in the amount of \$3.2 million.

“If, on the other hand, a plaintiff has achieved only partial or limited success, . . . a reasonable hourly rate may be an excessive amount. This will be true even where the plaintiff’s claims were interrelated, nonfrivolous, and raised in good faith.” *Hensley v. Eckerhart*, 461 U.S. 424, 435-36 (1983)

## **2. Court’s Ruling on Costs for the T5 Well Litigation**

Plaintiffs sought to recover trial-related costs in the amount of \$206,875.52.

On July 8, 2024, the Trial Court awarded Plaintiffs their trial-related costs in the amount of \$16,984.00.

The Trial Court’s rationale for rejecting Plaintiffs’ request for \$206,875.52 in “costs” was based principally on the Court of Appeals’ determination that: 1) Plaintiffs’ legal theories at trial were legally untenable, and 2) the opinions of Plaintiffs’ trial experts on the value of the T5 Well easement were “predicated on erroneous assumptions” that did not “support the condemnation judgment.”