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1 DOWNEY, BRAND, SEYMOUR & ROHWER LLP
2 KEVIN M. O'BRIEN (Bar No. 122713)
3 STEVEN P. SAXTON (Bar No. 116943)
4 GORDON B. BURNS (Bar No. 173441)
5 555 Capitol Mall, Tenth Floor
6 Sacramento, CA 95814-4686
7 Telephone: (916) 441-0131
8 Facsimile: (916) 441-4021

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Attorneys for Plaintiff SANTA MARIA VALLEY
WATER CONSERVATION DISTRICT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

CV770214

CV 080973

DOWNEY, BRAND, SEYMOUR & ROHWER LLP

10 SANTA MARIA VALLEY WATER)
11 CONSERVATION DISTRICT, a public)
12 entity,)

No. **CV** 080973
**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**
(CCP §§ 526, 1060)

13 Plaintiff,)

14 v.)

15 CITY OF SANTA MARIA, a municipal)
16 corporation; SOUTHERN CALIFORNIA)
17 WATER COMPANY, a California)
18 corporation; and CITY OF GUADALUPE,)
19 a municipal corporation; DOES 1 through)
20 3,000 inclusive,)

FAST TRACK

Defendants.)

CC

21 Plaintiff SANTA MARIA VALLEY WATER CONSERVATION DISTRICT

**SUMMONS
ISSUED**

22 (hereinafter "DISTRICT") alleges as follows:

23 **I. JURISDICTION AND VENUE**

24 1. This Court has jurisdiction over this action pursuant to Code of Civil
25 Procedure Sections 526 and 1060.

26 2. Venue is proper in this Court because the water and real property which
27 are the subject of this action are located in part within the County of San Luis Obispo.
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DOWNEY, BRAND, SEYMOUR & ROHWER LLP

II. PARTIES

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3. DISTRICT is, and at all relevant times was, a water conservation district organized under the Water Conservation District Law of 1931, Water Code § 74000 *et seq.* The District encompasses an area of 45,934 acres, of which 34,512 acres are located in Santa Barbara County and 11,422 acres are located in San Luis Obispo County. Under Water Code § 74641, DISTRICT has the power to bring this action in the name of DISTRICT since this proceeding affects or involves the ownership or use of water or water rights within DISTRICT.

4. Defendant City of Santa Maria is, and at all relevant times was, a municipal corporation of the State of California located entirely within the County of Santa Barbara. The City of Santa Maria provides retail municipal water service to customers within its boundaries.

5. Defendant Southern California Water Company (hereinafter "SoCal") is, and at all relevant times was, an investor-owned public utility subject to the jurisdiction of the Public Utilities Commission of the State of California. SoCal is a retail water purveyor serving, among other places, portions of the Counties of Santa Barbara and San Luis Obispo.

6. Defendant City of Guadalupe is, and at all relevant times was, a municipal corporation of the State of California, located entirely within the County of Santa Barbara. The City of Guadalupe provides retail municipal water service to customers within its boundaries.

7. Each of the defendants identified as Does 1 through 3,000, inclusive are persons other than the named defendants who, whether as individuals, corporations, unincorporated associations, partnerships, trustees, executors, guardians, or otherwise claim some right, title or interest in water in the Santa Maria Valley Groundwater Basin as hereinafter defined. DISTRICT is unaware of the true names and identities of Does 1 through 3,000 and therefore sues the Doe defendants by such fictitious names, and will amend this pleading to reflect their true identities and capacities once ascertained.

1 II. GENERAL ALLEGATIONS

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3 A. Physical Setting

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5 8. The Santa Maria Valley encompasses an area of approximately 110,700
6 acres bordered by the Sierra Madre Mountains to the east, the Casmalia Hills and Orcutt
7 Uplands to the south, the Nipoma Mesa to the north and the Pacific Ocean to the west. It
8 forms the largest single body of agricultural land in the central coastal region of California.
9 The Santa Maria Valley is situated in both Santa Barbara and San Luis Obispo Counties.

10 9. The Santa Maria River originates at the confluence of the Cuyama and
11 Sisquoc Rivers and flows through the Santa Maria Valley, forming the boundary between
12 Santa Barbara and San Luis Obispo Counties. The Santa Maria River has a total drainage area
13 of approximately 1885 square miles, of which approximately 1600 square miles are mountains,
14 145 square miles are rolling foothills and 140 square miles are the Santa Maria Valley.

15 10. The Santa Maria River and its tributaries are typical of most Southern
16 California streams in that they have what is known as a "flashy" runoff. The great bulk of the
17 stream flow occurs in a relatively short time period following storms during the rainy season.
18 If not impounded by dams or other similar facilities, the vast majority of these high water
19 flows would waste to the Pacific Ocean.

20 11. The Santa Maria Valley Groundwater Basin (hereinafter "Basin")
21 underlies the Santa Maria Valley, as well as the Orcutt Uplands, the Sisquoc Plain and the
22 Nipomo Mesa. The approximate boundary of the Basin is depicted on Exhibit "A" attached
23 hereto and incorporated herein. The Basin was formed through the transport and deposition of
24 ancient and recent alluvium (porous sands, gravels and clay) resting upon consolidated rocks.
25 This alluvial fill has become in part saturated with water, forming a large natural storage
26 reservoir from which practically all the water used in the Santa Maria Valley as of the date of
27 commencement of this action is obtained.

28 ///

1 12. Groundwater levels within the Basin have fluctuated greatly since the
2 1920's when water level measurements were first recorded. A substantial decline in
3 groundwater levels occurred between 1945 and the late 1960's, with a progressively greater
4 decline further inland from the coast. From 1945 to the late 1960's, the decline of
5 groundwater levels in the Basin ranged from approximately 20 to 40 feet near the coast to as
6 much as 120 feet inland.

7 13. Groundwater levels in the Basin have achieved a general long-term
8 stability since the late 1960's. Since that time short-term declines in groundwater levels have
9 occurred during periods of dry climatic conditions, but groundwater levels in the Basin have
10 repeatedly recovered to near-historic high levels during normal and wet climatic conditions.
11 Groundwater levels in the coastal areas of the Basin remain more constant than inland water
12 levels. Groundwater levels maintain a seaward gradient, causing a discharge of fresh water
13 from the Basin to the ocean at all times.

14 14. The Basin is currently in a condition of general long-term equilibrium;
15 inflow to the Basin approximately equals outflow and pumping from the Basin on a long-term
16 basis. DISTRICT is informed and believes and on that basis alleges that each of the
17 defendants currently pumps groundwater from the Basin for delivery to municipal customers,
18 in amounts presently unknown to DISTRICT.

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20 B. The Twitchell Project

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22 15. Twitchell Dam and Reservoir (hereinafter "Twitchell Project") was
23 constructed in 1958 by the Bureau of Reclamation, United States Department of the Interior on
24 the Cuyama River, a tributary of the Santa Maria River and the boundary between the counties
25 of San Luis Obispo and Santa Barbara. The reservoir, which is located within San Luis
26 Obispo and Santa Barbara Counties, has a total storage capacity of approximately 240,000
27 acre-feet. The Twitchell Project is currently operated and maintained by DISTRICT.

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1 16. Whereas prior to the completion of the Twitchell Project high flows of
 2 water in the Cuyana River watershed would waste to the sea, the Twitchell Project now
 3 captures these flows and slowly releases them so that they percolate into and recharge the
 4 Basin. The long-term stability of groundwater levels that has occurred in the Basin since the
 5 late 1960's is principally due to the operation of the Twitchell Project.

6 17. DISTRICT and its landowners hold a perpetual right issued by the State
 7 of California Water Resources Control Board to use all water that becomes available through
 8 the operation of the Twitchell Project, including but not limited to water from the Twitchell
 9 Project that recharges the Basin.

10 C. Current Condition of the Basin

11 18. Demands on water from the Basin are increasing, principally due to
 12 population growth in the Santa Maria Valley. From 1970 to 1980, the population of the
 13 Valley increased by approximately 35 percent and from 1980 to 1990 it increased by
 14 approximately 45 percent. With the importation of supplemental water to the Valley via the
 15 State Water Project, there will be pressure to accelerate urban growth within the Valley.
 16 DISTRICT is informed and believes and on that basis alleges that, in the aggregate, demands
 17 for water from the Basin will increase in the future. Consequently, while the Basin is now in
 18 a condition of general long-term equilibrium, unless carefully managed the Basin will become
 19 overdrafted in the future.

20 19. Water quality conditions in the Basin have changed over the period for
 21 which water quality data are available, with improvement in some portions of the Basin and
 22 degradation in others. Generally, water quality has improved along the Santa Maria River in
 23 the eastern portion of the Basin and has degraded in the western portion of the Basin. The
 24 principal water quality problem in the western portion of the Basin involves elevated
 25 concentrations of total dissolved solids ("TDS"), commonly known as salts. In addition,
 26 concentrations of chloride, sulfate and nitrate have risen in the western portion of the Basin.

27 20. DISTRICT is informed and believes and on that basis alleges that a
 28 principal cause of the increase in TDS concentrations in the western portion of the Basin is

1 the discharge of treated sewage effluent containing elevated concentrations of TDS from a
2 sewage treatment plant operated and maintained by the City of Santa Maria.

3 21. The elevated levels of TDS in the groundwater attributable to the City of
4 Santa Maria's use, operation, and maintenance of its sewage treatment plant have injured and
5 interfered with the use and enjoyment of property owned and occupied by landowners within
6 the DISTRICT by causing lower crop yields and elevated levels of salts in the soil. Unless the
7 increase in TDS concentrations in the Basin is halted, irrigated agriculture in portions of the
8 western Santa Maria Valley will become economically non-viable in the future.

9 22. In 1995, DISTRICT adopted a groundwater management plan pursuant
10 to Water Code § 10750 *et seq.* governing the management of those portions of the Basin lying
11 within the DISTRICT. No other groundwater management plan for the Basin has been
12 adopted.

13 D. Importation of Surface Water to the Santa Maria Valley via the State Water
14 Project

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16 23. The State Water Project (hereinafter "SWP") is a multipurpose water
17 supply project operated and maintained by the California Department of Water Resources
18 (hereinafter "DWR").

19 24. As of the date of commencement of this action, DWR was in the process
20 of completing construction of the Coastal Branch, Phase II, of the SWP. The Coastal Branch,
21 Phase II, will be a pipeline approximately 102 miles in length. It will transport water from the
22 Phase I terminus of the Coastal Branch near Devil's Den in Kern County, continue through
23 San Luis Obispo County and terminate at the Tank 5 site on Vandenberg Air Force Base in
24 Santa Barbara County. Local water transport facilities will connect to the Coastal Branch
25 pipeline to deliver the water to the service areas of local water agencies.

26 25. The Central Coast Water Authority (hereinafter "CCWA") is a joint
27 exercise of powers authority formed in 1991 pursuant to Government Code Section 6500 *et*
28 *seq.* Defendants City of Santa Maria and City of Guadalupe are members of CCWA.

1 26. Defendant City of Santa Maria holds contractual entitlements to purchase
2 from CCWA up to 16,200 acre-feet per year of SWP water (exclusive of any drought buffer)
3 that is to be imported into the Santa Maria Valley via the Coastal Branch Phase II of the SWP.

4 27. Defendant SoCal holds contractual entitlements to purchase from CCWA
5 up to 500 acre-feet per year of SWP water (exclusive of any drought buffer) that is to be
6 imported into the Santa Maria Valley via the Coastal Branch Phase II of the SWP.

7 28. Defendant City of Guadalupe holds contractual entitlements to purchase
8 from CCWA up to 550 acre-feet per year of SWP water (exclusive of any drought buffer) that
9 is to be imported into the Santa Maria Valley via the Coastal Branch Phase II of the SWP.

10 29. The SWP has contracted to supply approximately 4.2 million acre-feet
11 per year (afy) of water while its current firm annual supply is approximately 2.5 to 2.8 million
12 afy. It is therefore anticipated that in the majority of years, defendants will not receive their
13 full SWP contract supplies and will continue pumping from the Basin to meet a significant
14 portion of their water needs.

15 30. CCWA has authorized the preparation of engineering studies to
16 determine the feasibility of utilizing the Basin for storage (also known as "banking") of
17 imported SWP water. The engineering studies commissioned by CCWA conclude in part as
18 follows:

19 "The location of the Santa Maria Groundwater Basin relative to
20 the location of other CCWA project participants is ideal for a
21 storage program. The benefit of the basin being located on the
22 upstream portion of the Coastal Branch pipeline is the avoided
23 conveyance cost which would otherwise be incurred at the time
24 of storage if the water had to be conveyed and stored in a facility
25 located in the terminus reaches of CCWA system. Participating
26 agencies, particularly those which are located in the South Coast,
27 would be able to defer some of the conveyance cost until the
28 water is actually recovered from storage and used."

31. In general, the storage of SWP water in the Basin as envisioned by
defendants would involve (i) the purported storage of water in the Basin through direct
methods such as spreading basins or injection wells or through indirect methods such as the

1 substitution of imported SWP water for groundwater extraction (the latter practice being
2 sometimes referred to as "in-lieu recharge"); and (ii) the pumping of purportedly stored water
3 from the Basin in years during which SWP allocations are reduced due to drought or other
4 reasons, for use by SWP contractors within and outside the Santa Maria Valley.

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6 **FIRST CAUSE OF ACTION**

7 **(Declaratory Relief: Prescriptive Rights)**

8 32. DISTRICT realleges and incorporates herein, as if set forth in full, each
9 and every allegation contained in paragraphs 1 through 31 inclusive of this Complaint.

10 33. An actual controversy has arisen and now exists between DISTRICT, on
11 the one hand, and defendants, on the other hand, as follows:

12 a. DISTRICT contends that defendants hold no prescriptive rights to
13 extract or use groundwater from the Basin.

14 b. DISTRICT is informed and believes and on that basis alleges that
15 defendants contend that they, and each of them, have established prescriptive rights to extract
16 and use groundwater from the Basin.

17 34. DISTRICT desires a judicial declaration that defendants have no
18 prescriptive rights to extract or use groundwater from the Basin.

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20 **SECOND CAUSE OF ACTION**

21 **(Declaratory Relief: Rights to Utilize Twitchell Project Water)**

22 35. DISTRICT realleges and incorporates herein, as is set forth in full, each
23 and every allegation contained in paragraph 1 through 31 inclusive of this Complaint.

24 36. An actual controversy has arisen and now exists between DISTRICT, on
25 the one hand, and defendants on the other hand, as follows:

26 a. DISTRICT contends that defendants have no right to extract or
27 use groundwater that is present in the Basin as a result of the operation of the Twitchell
28 Project.

1 b. Defendants contend that they have rights to extract and use
2 groundwater that is present in the Basin as a result of the operation of the Twitchell Project.
3 37. DISTRICT desires a judicial declaration that defendants have no rights
4 to extract or use groundwater that is present in the Basin as a result of the operation of the
5 Twitchell Project.

6
7 **THIRD CAUSE OF ACTION**

8 **(Declaratory Relief: Appropriative Groundwater Rights)**

9 38. DISTRICT realleges and incorporates herein, as if set forth in full, each
10 and every allegation contained in paragraphs 1 through 31 inclusive of this Complaint.

11 39. An actual controversy has arisen and now exists between DISTRICT on
12 the one hand, and defendants on the other hand, as follows:

13 a. DISTRICT contends that, in order to maintain the Basin in a
14 condition of long-term equilibrium, limits on future pumping by defendants must be imposed
15 because defendants, as appropriators, may only extract and use water from the Basin that is
16 surplus to the needs of overlying landowners.

17 b. DISTRICT is informed and believes and on that basis alleges that
18 defendants contend that they may lawfully pump groundwater from the Basin without
19 restriction.

20
21 40. DISTRICT desires a judicial declaration as follows:

22 a. Determining the aggregate amount of surplus water, if any,
23 currently available from the Basin for appropriation by defendants; and

24 b. Declaring that if the current Basin surplus (if any) were to be
25 diminished or eliminated, then defendants' appropriative rights to extract and use groundwater
26 from the Basin would, upon further order of this Court, be subject to curtailment as necessary
27 to maintain the Basin in a condition of long-term equilibrium.

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FOURTH CAUSE OF ACTION

(Declaratory Relief: No Right to Recapture Imported

SWP Water Purportedly Stored in the Basin through Percolation of Return Flows)

41. DISTRICT realleges and incorporates herein as if set forth in full, each and every allegation contained in paragraphs 1 through 31 inclusive of this Complaint.

42. An actual controversy has arisen and now exists between DISTRICT, on the one hand, and defendants, on the other hand, as follows:

a. DISTRICT contends that defendants have no rights to recapture return flows from imported SWP water that recharge the Basin because, *inter alia*, any Basin recharge that occurs as a result of return flows from imported SWP water is deemed the first Basin water to spill to the ocean, and the Basin is presently spilling to the ocean on a continuous basis.

b. DISTRICT is informed and believes and on that basis alleges that defendants contend that they have a right to recapture return flows from imported SWP water that recharge the Basin, and that the storer does not bear the risk of loss.

43. DISTRICT desires a judicial declaration that defendants have no rights to recapture return flows from imported water that recharges the Basin.

FIFTH CAUSE OF ACTION

(Declaratory Relief: No Right to Recapture Imported SWP

Water Purportedly Stored in the Basin through In-Lieu Recharge)

44. DISTRICT realleges and incorporates herein as if set forth in full, each and every allegation contained in paragraphs 1 through 31 inclusive of this Complaint.

45. An actual controversy has arisen and now exists between DISTRICT on the one hand and defendants on the other hand, as follows:

a. DISTRICT contends that defendants have no rights to recapture imported SWP water that is purportedly stored in the Basin through in-lieu recharge.

b. DISTRICT is informed and believes and on that basis alleges that defendants contend that they have a right to recapture return flows from imported SWP water

1 stored in the Basin through in-lieu recharge.

2 46. DISTRICT desires a judicial declaration that defendants have no rights
3 to recapture imported SWP water that is purportedly stored in the Basin through in-lieu
4 recharge.

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6 **SIXTH CAUSE OF ACTION**

7 **(Declaratory Relief: No Right to Recapture Water Purportedly Stored**
8 **in the Basin through Direct Recharge)**

9 47. DISTRICT realleges and incorporates herein as if set forth in full, each
10 and every allegation contained in paragraphs 1 through 31 inclusive of this Complaint.

11 48. An actual controversy has arisen and now exists between DISTRICT on
12 the one hand and defendants on the other hand, as follows:

13 a. DISTRICT contends that defendants have no rights to recapture
14 imported SWP water that is purportedly stored in the Basin through direct recharge activities
15 such as injection wells or spreading basins because, *inter alia*, any Basin recharge that occurs
16 as a result of direct recharge activities is deemed the first Basin water to spill to the ocean and
17 the Basin is presently spilling to the ocean on a continuous basis.

18 b. DISTRICT is informed and believes and on that basis alleges that
19 defendants contend that they have a right to recapture water stored in the Basin through direct
20 recharge.

21 49. DISTRICT desires a judicial declaration that defendants have no rights
22 to recapture SWP water purportedly stored in the Basin through direct recharge.

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26 **SEVENTH CAUSE OF ACTION**

27 **(Injunctive Relief)**

28 50. DISTRICT realleges and incorporates herein as if set forth in full, each

1 and every allegation contained in paragraphs 1 through 31 inclusive of this Complaint.

2 51. Since 1995, and continuing to the present time, defendants have
3 threatened to wrongfully and unlawfully extract groundwater from the Basin in excess of their
4 rights to do so.

5 52. The threatened conduct of defendants, unless enjoined and restrained by
6 order of this Court, will cause grave and irreparable injury to DISTRICT and its landowners
7 because defendants' conduct will cause the Basin to change from a condition of equilibrium to
8 a condition of overdraft. Causing the Basin to decline to a condition of overdraft will increase
9 pumping depths and increase the cost of extracting water from the Basin for overlying
10 landowners within the DISTRICT; may cause land subsidence, and may deprive those
11 landowners who have land overlying the Basin of sufficient water to meet their needs on their
12 overlying lands.

13 53. DISTRICT has no adequate remedy at law for the injuries that are
14 threatened from this pumping because groundwater in the Basin is a limited resource and
15 money damages would not replace the water that is wrongfully pumped from the Basin.

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17 **PRAYER FOR RELIEF**

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19 WHEREFORE, DISTRICT prays for judgment as follows:

20 1. For a declaration that defendants have no prescriptive rights to extract or
21 use groundwater from the Basin.

22 2. For a declaration that defendants have no rights to extract or use
23 groundwater that exists in the Basin as a result of operation of the Twitchell Project.

24 3. For an order: (i) determining the aggregate amount of surplus water, if
25 any, that is currently available in the Basin for appropriation by defendants; and (ii) declaring
26 that in the event that any current Basin surplus were to be diminished or eliminated, then
27 defendants' extraction or use groundwater from the Basin would, upon further order of this
28 Court, be subject to curtailment or elimination as necessary to maintain the Basin in a state of

1 long-term equilibrium.

2 4. For a declaration that defendants have no rights to recapture imported
3 SWP water that is purportedly placed in storage in the Basin through the percolation of return
4 flows from imported water into the Basin.

5 5. For a declaration that defendants have no rights to recapture imported
6 SWP water that is purportedly placed in storage in the Basin through in-lieu recharge.

7 6. For a declaration that defendants have no rights to recapture imported
8 SWP water that purportedly is placed in storage in the Basin through direct recharge activities
9 such as injection wells or spreading basins or other similar means.

10 7. For an injunction restraining defendants, and their agents, servants and
11 employees, and all persons acting under, in concert with, or for them, or anyone acting
12 through them or on their behalf, from extracting or using groundwater from the Basin except
13 as is consistent with the judgment;

14 8. For an order appointing a watermaster to administer the judgment;

15 9. For this Court to maintain continuing jurisdiction over this controversy
16 so as to carry out and enforce the terms of the judgment;

17 10. For costs of suit; and

18 11. For such other relief as the Court deems just and proper.

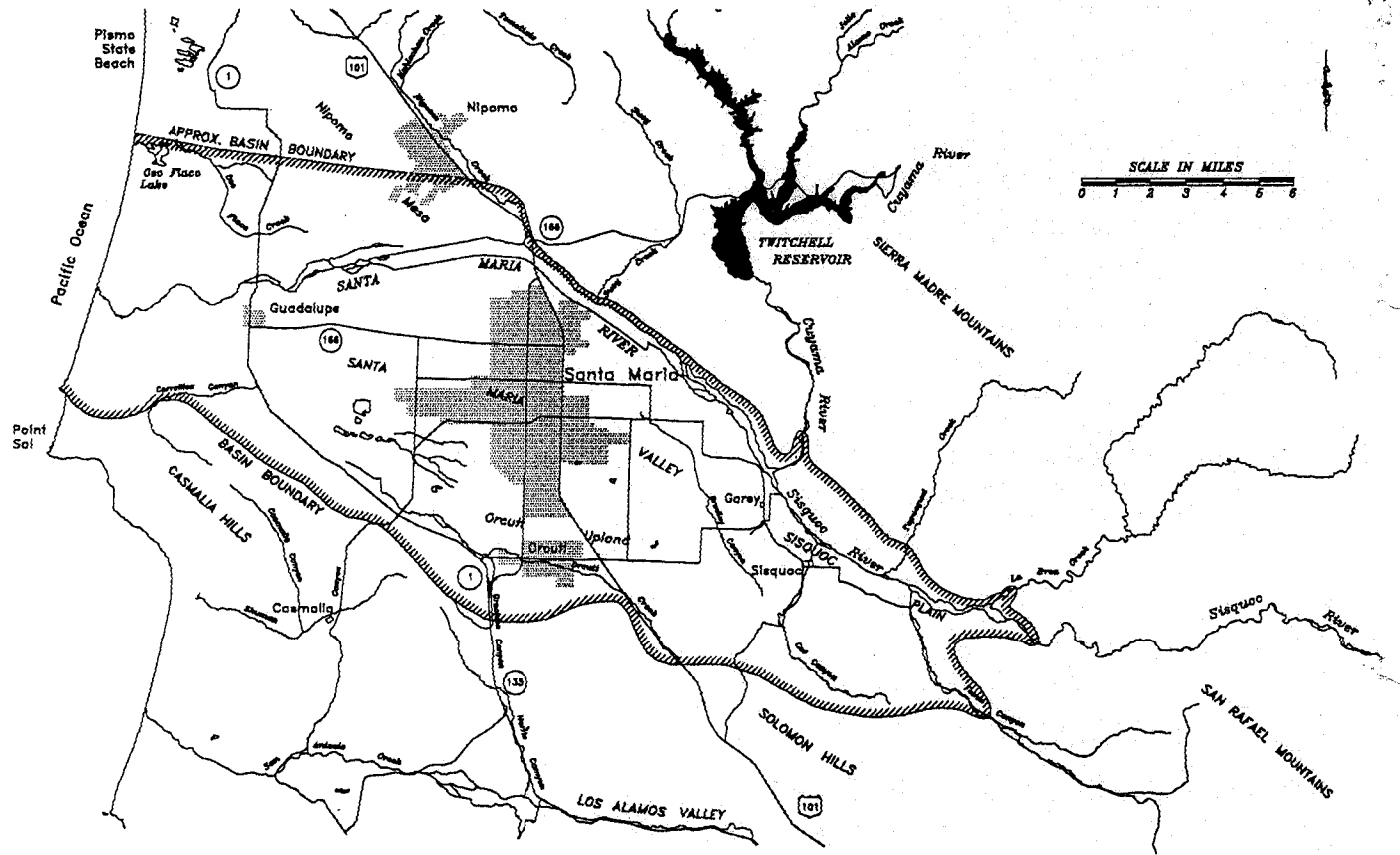
21 DATED: July 14, 1997

DOWNEY, BRAND, SEYMOUR & ROHWER LLP

24 By: Kevin M. O'Brien
25 KEVIN M. O'BRIEN
26 Attorneys for Plaintiff SANTA MARIA VALLEY
27 WATER CONSERVATION DISTRICT

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LUHDOFF & SCALMANINI
CONSULTING ENGINEERS

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Santa Maria Valley Area
Santa Barbara and San Luis Obispo Counties

EXHIBIT A