EXHIBIT A

Stipulating Parties and Parcels of Land Bound by Terms of Stipulation

Santa Maria Valley Water Conservation District v. City of Santa Maria Santa Clara County Superior Court Case No. CV 770214

Awaiting complete list of Stipulating Parties

EXHIBIT B

Phase I and II Orders (as modified) and Santa Maria Basin Map

Santa Maria Valley Water Conservation District v. City of Santa Maria Santa Clara County Superior Court Case No. CV 770214

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SANTA CLARA DEPARTMENT 17

SANTA MARIA VALLEY WATER CONSERVATION DISTRICTS, A PUBLIC) Case No. CV 770214
ENTITY,) NIPOMO COMMUNITY SERVICES) ORDER AFTER HEARING GRANTING
Plaintiff,) DISTRICT'S MOTION FOR SUMMARY) ADJUDICATION
vs.)
CITY OF SANTA MARIA, A MUNICIPAL CORPORATION, ET AL.))))
AND RELATED CROSS-ACTIONS.	<u>;</u>
)

The above-entitled matter came on regularly for hearing on January 8, 2001, at 1:30 p.m., the Honorable Conrad L. Rushing presiding. Counsel Robert Dougherty appeared on behalf of the Land Owner Group Parties and Steven Saxton, appeared on behalf of Plaintiffs and James Markman appeared on behalf of Nipomo Community Services District, Henry Weinstock appeared on behalf of Northern Cities and Ryan Bezzera appeared on behalf of Rancho Maria, et al. The Court, having read and considered the supporting and opposing papers, and having heard and considered the arguments of counsel, and good cause appearing therefor, makes the following order:

IT IS ORDERED THAT:

Community Services District's Motion for Summary Adjudication is GRANTED. The Court grants all joinders. Based on the Land Owner Group's concession that the adoption of the "Foreman Line" is appropriate, as well as the concession offered by Mr. Slade that he does not disagree with Mr. Foreman on the "outermost" basin boundary, the Court finds that there is no triable issue of material fact as to the "outermost" basin boundary as articulated in the Declaration of Terry Foreman, dated December 8, 2000, and as depicted on Exhibit 1 thereto1. (See Nipomo's Statement of Material Fact #3, evidence in support and in opposition thereto.) Therefore, the moving parties are entitled to judgment on all affirmative defenses dealing with uncertainty of the basin boundaries.

The Court finds that the outermost lateral boundary of the Santa Maria Valley Groundwater Basin ("the Basin") lies along a type of material that does not readily transmit water, that is, for the purposes of this case, it is impermeable (impermeable is used here to mean only that the rocks, sediments and other materials do not readily transmit water). Thus, material (rock, sediments, sand, etc.) that do readily transmit water are within the basin.

Those that do not readily store and transmit water are the Foxen Formation or older, including the Franciscan Formation, the Knoxville Formation, the Monterey Formation, the Obispo Formation, and the Sisquoc Formation; and those that do readily store and transmit water are the Careaga Sandstone or younger, including the Careaga Formation, the Pismo Formation, the Paso Robles Formation, time-

¹The boundary described herein is shown on that certain map marked Exhibit 1, by a black dash double dot line and said Exhibit is in evidence and a part of this Order.

equivalent Paso Robles Formation, Orcutt Formation, terrace deposits, young and old alluvium, and dune and sand deposits, with the following three exceptions:

- a. The southern boundary along the Solomon Hills is located on the axis of antic lines where the Careaga Sandstone and Paso Robles Formation dip in the Basin on the north side of the axis and dip into a separate basin, the San Antonio Basin, on the south side of the axis;
- b. Where the Basin boundary crosses tributary streams, the boundary is located across the mouth of each such stream to directly connect the closest bedrock contacts on each side of that stream; and,
- c. The western boundary of the Basin is the Pacific Ocean.

The vertical boundary of the Basin is located at the contact between those rocks and sediments that readily store and transmit water (generally, the Careaga Formation and younger) and those rocks and sediments that do not readily store and transmit water (generally, the Foxen Formation and older) as described above in reference to the lateral boundary of the Basin, except that in the northeast portion of the area north of the Santa Maria River, the vertical Basin boundary extends to the base of the Obispo tuffs of the Obispo Formation. The Obispo tuffs underlie the alluvium of the Nipomo Valley, and extend beneath the Paso Robles Formation northerly to the Arroyo Grande Valley.

SO ORDERED.

Dated: January 9, 2001

[ORIGINAL SIGNED]
CONRAD L. RUSHING

SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA CLARA **DEPARTMENT 17C**

SANTA MARIA VALLEY WATER CONSERVATION DISTRICTS, a public entity, Plaintiff,

Case No. CV 770214

ORDER AFTER HEARING RE: TRIAL (PHASE II)

vs. CITY OF SANTA MARIA, a municipal Hearing Date: October 9, 2001 8:45 a.m. 17C Time:

corporation, et al.,

Dept.:

Defendants,

Hon. Conrad L. Rushing Judge:

AND RELATED CROSS-ACTIONS

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Trial of Phase II of the above-entitled matter came on regularly on October 9, 2001, at 10:00 a.m., the Honorable Conrad L. Rushing presiding. The Court, having considered the testimony, declarations and exhibits, and good cause appearing therefor, issues the following decision and order:

Plaintiff's motion for an order establishing the geographic area constituting the Santa Maria Groundwater Basin (hereinafter "Basin"), for the purposes of this case, is hereby GRANTED.

The Court finds that the boundary of the Basin is that described on the map filed as Exhibit 5 with the Declaration of Robert C. Wagner dated November 20, 2001 (which can be found currently at http://www.sccomplex.org/docfiles/QD0CB28E06D5.pdf), hereinafter referred to as the

"Boundary Line." Each of the parties to the Phase II proceedings on October 9, 2001, stipulated to the Court's determining the Boundary Line of the Basin. The Basin shall also include for purposes of adjudication herein all those parcels of land, which are shown on the said Exhibit 5 and listed on Exhibit 6 to the said Declaration of Robert C. Wagner, which either touch or are intersected by the Boundary Line, to the full extent of the perimeter of such parcels. The Court has not at this time received full briefing as to whether there are legal issues as to such parcels which touch or are intersected by the Boundary Line, concerning whether owners of such parcels may appropriate water from the Basin for the use of the remainder of the subject parcels, whether the owners of such parcels are considered to be landowners or purveyors, or whether their rights to extract or export water are affected by their parcels not being fully within the Basin. Thus, at this time, until further order, the Court orders that those parcels are to be considered within the Basin.

The Court finds on the basis of the evidence presented that the Boundary Line demarcates the boundary of the Basin, and that the Basin constitutes the area beneath which groundwater exists in sufficient quantities to be meaningfully included in this lawsuit. The Court also finds that the area previously included in the "outermost basin boundary," but excluded by the Boundary Line, contains potentially water-bearing materials, but nevertheless lacks actual groundwater in amounts sufficient to justify including that area in this case for purposes of adjudicating the various claims to groundwater in the Basin. Owners of lands beneath which no significant groundwater supply exists do not have property right claims concerning such water that present a justiciable issue. Similarly, owners of lands beneath which no significant groundwater supply exists should not be permitted to assert, by virtue of their ownership of such lands, claims respecting groundwater supplies underlying adjacent or nearby lands.

The Court further finds that the Declaration of Robert C. Wagner dated November 20, 2001, attached to this Order, along with Mr. Wagner's map and table of parcels, attached as Exhibits 5 and 6, set forth sufficient detail regarding the specific parcels traversed by the Basin Boundary Line so as to apprise potentially affected landowners and other interested parties of the location of the Basin and Boundary Line fixed by this Order. A digital rendition of the map prepared by Mr. Wagner to depict affected parcels is posted for inspection on the Court's website.

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26 27 28 The Court determines that only the lands, groundwater extraction claims and claims to groundwater storage rights within the Boundary Line shall be subject to claims in this lawsuit. The Court has considered the possibility that ground water charging and storage might extend the boundaries of the basin but finds at this point that there is insufficient evidence of that affecting the prospective orders to be made by this Court.

The motion of the Northern Cities (joined by other parties) that the Northern Cities Area be conditionally severed from this litigation, is denied. The Northern Cities Area is also shown on the map which is attached as Exhibit 5 to the Declaration of Wagner. That area shall remain within the Basin and Boundary Line fixed in this Order. The Court finds that a comprehensive judgment in this litigation is advisable and necessary, in that only such a comprehensive judgment would prevent later litigation of the same issues, prevent the risk of rulings which are inconsistent, and prevent erroneous rulings which may be affected by facts which would be adduced if the interests of all parties who may be affected by these rulings were represented and involved throughout this litigation. Cases cited by the proponents of severance can also be read as indicating that retaining the Northern Cities Area in the litigation is necessary to render an effective judgment. Orange County Water District v. City of Riverside (1959) 173 Cal. App. 2d 137, 173 ("Undoubtedly the preferable course is, so far at least as is practicable, to 'have all owners of lands on the watershed and all appropriators who use water in court at the same time"); City of Chino v. Superior Court (1967) 255 Cal. App. 2d 747, 752 ("Because of the failure of OCWD in that earlier suit to join as defendants all claimants to prescriptive rights to water from the Upper and Middle Basins, many questions were left unanswered").

The Court has listened to the testimony and read the exhibits submitted, and additionally the supplemental memorandum of Richard C. Slade and supplemental declaration of Terry L. Foreman. The Court finds that there is no substantial controversy that the Northern Cities Area, the Nipomo Mesa and the Santa Maria Valley area all overlie one large groundwater basin. Each area is subject to the same general climatologic and hydrologic conditions. The Court concludes there are no geologic or hydrologic features that separate the Northern Cities Area from the remainder of the Basin encompassed by this litigation. The Court must consider that the water rights to be

determined in this litigation will apply to situations that might occur in other than a "best case' scenario. Future conditions could produce adverse impacts, such as drought, earthquake, failure of the Lopez Reservoir, or failure of the Northern Cities for other reasons to adhere to the so-called 'gentlemen's agreement" governing groundwater pumping in the Northern Cities Area. Representatives of the Northern Cities failed to stipulate to quieting title in other parties who have sued the Northern Cities for whatever rights they may possess, and failed to stipulate that they would desist from claiming water rights in the remainder of the Basin in such an eventuality. Indeed, it appears from the testimony that groundwater pumping in the Northern Cities area can potentially increase the flow of water to it from other parts of the Basin.

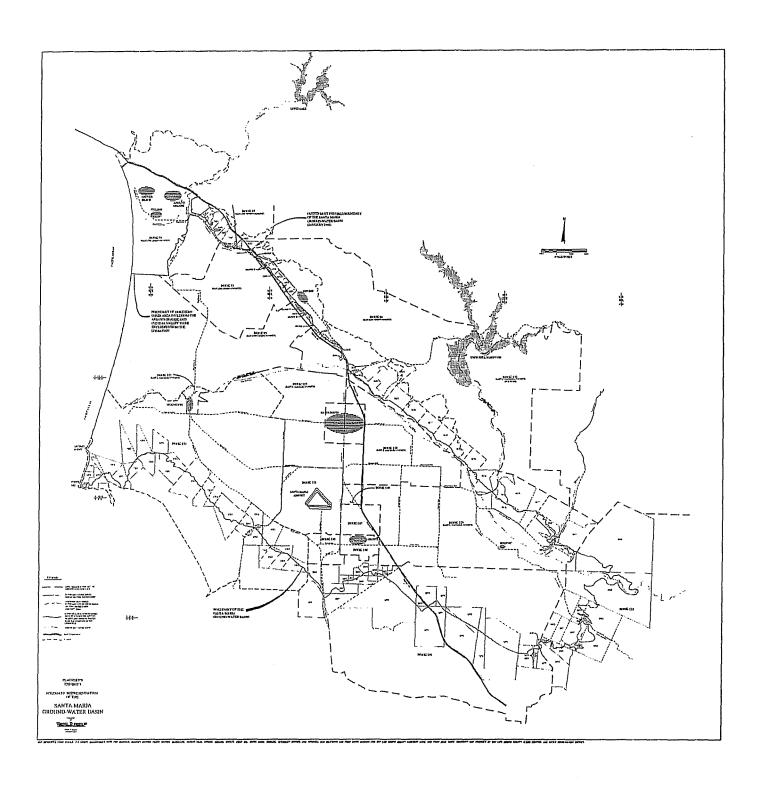
The parties reluctance to retain the Northern Cities area in the litigation appears to stem from the prospect of joining and serving all landowners in the Northern Cities area whose rights may potentially be affected. It may be possible, however, to obtain effective representation and due process for such landowners by means of a class action, after due notice is provided, in which such landowners are a defendant class. <u>United States v. Truckee-Carson Irrigation District</u> (D.Nev. 1975) 71 F.R.D. 10. The Court would entertain a motion to amend the cross-complaints or other pleadings to join the landowners in that area as a defendant class, represented by a handful of interested landowners who are similarly situated, in lieu of joinder of each owner. The Court would also entertain a motion, briefing and argument as to why it may be inappropriate or inconvenient to adjudicate the matter by means of a defendant class.

Any litigant now in the action who is asserting a quiet title claim concerning property outside of the Boundary Line must move for severance of that claim from this action and must file such a motion on or before thirty (30) days following service of this Order. Any such claims for which no motion to sever is filed will be dismissed without prejudice on motion of any party or by the Court on its own motion.

SO ORDERED.

Dated DEC 2 1 2001

CONRAD L. RUSHING
Judge of the Superior Court



FILED

JAN 2 5 2002

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SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA CLARA

DEPARTMENT 17C

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SANTA MARIA VALLEY WATER CONSERVATION DISTRICTS, a public entity,

Plaintiff.

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15 CITY OF SANTA MARIA, a municipal corporation, et al.,

Defendants.

18 AND RELATED CROSS-ACTIONS

Case No. CV 770214

ORDER WITH RESPECT TO BRIEF OF CONOCO, INC., NUEVO ENERGY COMPANY, AERA ENERGY LLC, TEXACO EXPLORATION AND PRODUCTION, INC. AND CHEVRON USA, INC.

IT IS HEREBY ORDERED:

The Court shall not be holding a hearing with respect to the brief of Conoco, Inc., Nuevo Energy Company, Aem Energy LLC, Texaco Exploration And Production Inc., and Chevron USA Inc., or request for clarification requested therein. The Court finds that the request for clarification found in the Conclusion section of the said Brief appears to restate what was intended by the Court's Order filed December 21, 2002. The parties may consider the Order to be so clarified if it saids in further proceedings in this matter.

SO ORDERED.

Dated: JAN 2 5 2002

CONRAD L. RUSHING Judge of the Superior Court

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Attorneys for Cross-Defendants, Conoco Inc., Nuevo Energy Company, Aera Energy LLC and ChevronTexaco



SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SANTA CLARA

SANTA MARIA VALLEY WATER CONSERVATION DISTRICT, a public entity, Plaintiff, vs. CITY OF SANTA MARIA, et al Defendants. Defendants. AND RELATED CROSS-ACTIONS SANTA MARIA GROUNDWATER LITIGATION Lead Case No. CV 770214 Judge Conrad L. Rushing ... AND RELATED CROSS-ACTIONS

BRIEF OF CONOCO, INC., NUEVO ENERGY COMPANY, AERA ENERGY LLC, TEXACO EXPLORATION AND PRODUCTION INC., AND CHEVRON USA INC.

I.

INTRODUCTION

This Brief is filed on behalf of Defendants/Cross-Complainants Conoco Inc., Nuevo Energy Company, Aera Energy LLC and Texaco Exploration and Production Inc. and Chevron USA Inc,

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Young Wooldridge, LLP

Mestchester Corporate Plaza • 1800 30th Street, Fourth Floor • Bakersfield, CA 93301-5298 • Telephone 661-327-9661 • Facsimile 661-327-1087 • Intp://www.youngwooldridge.com A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CONFORATIONS

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(recently merged and hereinafter known as ChevronTexaco), (collectively referred to as ""Oil Group") parties.

On January 8, 2001, this Court entered its order after hearing granting the Santa Maria Valley Water Conservation District and Nipomo Community Service District's motion for summary judgment. The Oil Group joined in that motion as a moving party. The Court ruled that "the moving parties are entitled to judgment on all affirmative defenses dealing with uncertainty of the basin boundaries.\(^1\) (Summary Judgment Order, page 2.) More particularly, this Court adjudged, declared and decreed in its January 9, 2001 Order that the "outermost lateral boundary of the Santa Maria Valley Groundwater Basin ("Basin") lies along a type of material that does not readily transmit water . . . [and that] material (rock, sediments, sand, etc.) that do readily transmit water are within the basin". (Id.) Further, that there was "no triable issue of material fact as to the 'outermost' basin boundary as articulated in the Declaration of Terry Foreman, dated December 8, 2000, and as depicted on Exhibit 1 thereto". \(^2\) (Id.)

The Court's Case Management Order No. 6, dated January 9, 2001, provided that "this Court ordered that the hydrogeological boundaries of the . . . Basin . . . be adjudicated separately as the Phase I; of this action. The Court now finds that there is need to determine the boundaries of the area to be adjudicated in this case in order to determine which parties should be excluded from or included in it." (Case Management Order No. 6, page 1) Further, that "Phase II, will decide the limits of the area that will be included in this groundwater adjudication and the areas . . . that may be excluded from this case . . .". (Id.)

The Oil Group parties alleged as a affirmative defense, as against each cross-complainant, that the Santa Maria Basin boundary as alleged in the cross-complaints were insufficiently described and were therefore insufficient on grounds of uncertainty. The Oil Group requests this Court to take judicial notice of such affirmative defenses alleged in each answer to the cross-complaints on file with this Court pursuant to Evidence Code Section 452(d).

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This Court has now rendered its decision and order, in part providing, that the Santa Maria Valley Conservation District's motion for an order "establishing the geographic area constituting the . . . Basin . . . for the purposes of this case, is hereby GRANTED.". (Order, page 2) In sum, the Court stated that it "finds the boundary of the Basin is that described on the map field as Exhibit 5 with the Declaration of Robert C. Wagner, dated November 20, 2001." (Id.)

This brief is prepared pursuant to this Court's December 21, 2001 Order After Hearing Re: Trial (Phase II) ("Order") requesting receipt of full briefing as to whether there are legal issues raised with regard to parcels which touch or are intersected by the Boundary Line adjudicated as part of the Phase II proceedings. No other provision or issue addressed in the Order is addressed in this Brief.

Without waiving further objections, the Oil Group parties request this Court to reevaluate and correct its Decision and Order as stated in this Brief. California Code of Civil Procedure Section 128(a)(8); Darling, Hall & Rae v. Kritt (1999) 75 Cal.App. 4th 1148, 1156; Berstein v. Consolidated American Ins. Co. (1995) 37 Cal.App. 4th 763, 774; and Nave v. Taggart (1995) 34 Cal.App. 4th 1173, 1177.

II.

BRIEFING

With regard to that portion of the Court's Order determining the boundary of the Basin, the Court addressed two (2) separate and distinct issues. First, a determination of the boundary line of the Basin. Second, a conditional provision for potential further adjudication of certain parcels identified to be proximate to the boundary line of the Basin.

² The summary judgment order incorporated the map depicting the "outermost" boundary as part of that January 8, 2001 Order.

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Fundamentally, the Order finds and specifically determines that the boundary of the Basin is that line described in Mr. Wagner's Declaration and depicted as the solid magenta line on the incorporated map, Exhibit 5. In Mr. Wagner's Declaration he declared that,

"The line identified as the boundary of the Santa Maria Ground-Water basin is based on geologic and hydrologic considerations and represents the extent of the aguifers comprising the groundwater basin. This line was developed in part during the meetings of the Technical Committee and to the extent that the boundary encompasses the water bearing sediments with the basin, represents the view of the Technical Committee and its members. This is the same line that was presented to the Court on October 9, 2001 on maps prepared by Mr. Joseph Scalmanini." (Emphasis added.)

Specifically, the Court has stated that it "... finds that the boundary of the Basin is that described on the map filed as Exhibit 5... hereinafter referred to as the Boundary Line.". (Order, page 2) (Emphasis added.) More particularly, the "... Court finds on the basis of the evidence presented that the Boundary Line demarcates the boundary of the Basin, and that the Basin constitutes the area beneath which groundwater exists in sufficient quantities to be meaningfully included in this lawsuit." (Order, page 2.) "The Court determines that only the lands, groundwater extraction claims and claims to groundwater storage rights within the Boundary Line shall be subject to claims in this lawsuit." (Order, page 3.) (Emphasis added.) Finally with regard to issues of notice and due process the Court decreed that it "... finds that the Declaration of Robert C. Wagner . . . map and table to parcels, attached as Exhibits 5 and 6, set forth sufficient detail regarding the specific parcels traversed by the Basin Boundary Line so as to apprise potentially affected landowners and other interested parties of the location of the Basin and Boundary Line fixed by this Order." (Order, page 3.) (Emphasis added.) Based on

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However, in that portion of the Order addressing those parcels which are touched or intersected by the adjudicated Boundary Line, the Court utilizes a significantly different definition. For example, the Order provides that the "Basin shall also include for purposes of adjudication herein all those parcels of land, which are shown on Exhibit 5 and listed on Exhibit ... to the full extent of the perimeter of such parcels." (Order, page 2). (Emphasis added.) "Thus, at this time, until further order, the Court orders that those parcels are to be considered within the Basin." (Order, page 2). (Emphasis added.) Under this definition, the Basin boundary could be construed to be that area interior to the solid orange line representative of the several Assessors' Parcel Lines depicted on the Exhibit 5 and not the solid magenta identified by Mr. Wagner and Mr. Scalmanini. Such a construction is directly contradicted by the Court's specific findings and determinations regarding the Basin Boundary and this Court's earlier order adjudicating the "outermost lateral boundary" of the Basin. (Summary Judgment Order, page 2.) Further, such a construction is not consistent with the Court's stated rationale for conditionally including the entirety of such parcels in this adjudication. Specifically, the Court's Order provides that, at this time and pending further briefing and order from the Court, that such parcels should be included in the area adjudicated by this groundwater litigation. Importantly, the Court has indicated that, while not deciding any such matters, such parcels may raise further legal issues regarding the use of water from the Basin. Therefore, while the Court has held that the full extent of the perimeter of such parcels should, at this time, be included in the area the subject of this groundwater adjudication, not all such lands have been found by the Court to be

within the limits of the adjudged Basin Boundary as depicted on Exhibit 5. Importantly, the

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Court has made no determination with regard to the rights of such parceis and landowners to the use of water from the Basin.

This Court has the ability, on its own motion, to reevaluate its own interim rulings, or to correct an erroneous ruling. Darling, Hall & Rae v. Kritt (1999) 75 Cal.App. 4th 1148, 1156; Berstein v. Consolidated American Ins. Co. (1995) 37 Cal.App. 4th 763, 774; California Code of Civil Procedure Section 128(a)(8). "Until entry of judgment, the court retains complete power to change its decision as the court may determine; it may change its conclusions of law or findings of fact". Nave v. Taggart (1995) 34 Cal.App. 4th 1173, 1177.

III.

CONCLUSION

In light of this Court's prior orders and decrees, the provisions of the Order, and the abovecited authorities, the Oil Group parties respectfully request confirmation from the Court that the December 21, 2001 order and decision provides, with regard to the issues raised in this Brief, as follows:

- (1) That the boundary of the Basin is as depicted on the Exhibit 5 to the Declaration of Robert C. Wagner, dated November 20, 2001. Specifically, the boundary of the Basin is that line identified on the legend to the map as "boundary of the Santa Maria Ground-Water Basin" depicted on the map as a solid magenta colored line;
- (2) That the Basin boundary is not that line identified on the legend to the map as the "Assessors' Parcel Lines" depicted on the map as a solid orange colored line;
- (3) that those parcels identified on Exhibit 5, which either touch or are intersected by the Boundary Line, are until further order of this Court, provisionally included for purposes of adjudication in this case; and

EXHIBIT B Page 15 of 16 Mesichester Corporate Plaza • 1800 30th Street, Fourth Floor • Bakersfield, CA 93301-5298 • Telephone 661-327-9661 • Facsimile 661-327-1087 • http://www.youngwooldridge.com

(4) that any further order of this Court regarding the adjudication of the rights and duties of such parcels will be determined in subsequent proceedings of this litigation following presentation of evidence and legal briefing on any such issues.

Dated: December 31, 2001

THE LAW OFFICES OF YOUNG WOOLDRIDGE LLP

By:

SCOTT K. KUNEY, Esq.,

Attorneys for Cross-Defendants, Conoco, Inc., ChevronTexaco, Nuevo Energy Company, and Aera Energy LLC

EXHIBIT C

Map of the Basin and Boundaries of the Three Management Areas

Santa Maria Valley Water Conservation District v. City of Santa Maria Santa Clara County Superior Court Case No. CV 770214

