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KIM TORRANCE  
CLERK OF SUPERIOR COURT  
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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,  
vs.  
CITY OF SANTA MARIA, a municipal  
corporation, et al,  
Defendants,

Case No. CV 770214  
ORDER AFTER HEARING RE:  
TRIAL (PHASE II)  
Hearing Date: October 9, 2001  
Time: 8:45 a.m.  
Dept.: 17C  
Judge: Hon. Conrad L. Rushing

AND RELATED CROSS-ACTIONS

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/doorfiles/QD0CB28E06D5.pdf>), hereinafter referred to as the

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

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

23 The Court further finds that the Declaration of Robert C. Wagner dated November 20, 2001,  
24 attached to this Order, along with Mr. Wagner's map and table of parcels, attached as Exhibits 5 and  
25 6, set forth sufficient detail regarding the specific parcels traversed by the Basin Boundary Line so  
26 as to apprise potentially affected landowners and other interested parties of the location of the Basin  
27 and Boundary Line fixed by this Order. A digital rendition of the map prepared by Mr. Wagner to  
28 depict affected parcels is posted for inspection on the Court's website.

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

7 The motion of the Northern Cities (joined by other parties) that the Northern Cities Area be  
8 conditionally severed from this litigation, is denied. The Northern Cities Area is also shown on the  
9 map which is attached as Exhibit 5 to the Declaration of Wagner. That area shall remain within the  
10 Basin and Boundary Line fixed in this Order. The Court finds that a comprehensive judgment in this  
11 litigation is advisable and necessary, in that only such a comprehensive judgment would prevent later  
12 litigation of the same issues, prevent the risk of rulings which are inconsistent, and prevent erroneous  
13 rulings which may be affected by facts which would be adduced if the interests of all parties who  
14 may be affected by these rulings were represented and involved throughout this litigation. Cases  
15 cited by the proponents of severance can also be read as indicating that retaining the Northern Cities  
16 Area in the litigation is necessary to render an effective judgment. Orange County Water District  
17 v. City of Riverside (1959) 173 Cal.App.2d 137, 173 ("Undoubtedly the preferable course is, so  
18 far at least as is practicable, to 'have all owners of lands on the watershed and all appropriators who  
19 use water in court at the same time"); City of Chino v. Superior Court (1967) 255 Cal.App.2d  
20 747, 752 ("Because of the failure of OCWD in that earlier suit to join as defendants all claimants to  
21 prescriptive rights to water from the Upper and Middle Basins, many questions were left  
22 unanswered").

23 The Court has listened to the testimony and read the exhibits submitted, and additionally the  
24 supplemental memorandum of Richard C. Slade and supplemental declaration of Terry L. Foreman.  
25 The Court finds that there is no substantial controversy that the Northern Cities Area, the Nipomo  
26 Mesa and the Santa Maria Valley area all overlie one large groundwater basin. Each area is subject  
27 to the same general climatologic and hydrologic conditions. The Court concludes there are no  
28 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

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

10 The parties reluctance to retain the Northern Cities area in the litigation appears to stem from  
11 the prospect of joining and serving all landowners in the Northern Cities area whose rights may  
12 potentially be affected. It may be possible, however, to obtain effective representation and due  
13 process for such landowners by means of a class action, after due notice is provided, in which such  
14 landowners are a defendant class. United States v. Truckee-Carson Irrigation District (D.Nev. 1975)  
15 71 F.R.D. 10. The Court would entertain a motion to amend the cross-complaints or other pleadings  
16 to join the landowners in that area as a defendant class, represented by a handful of interested  
17 landowners who are similarly situated, in lieu of joinder of each owner. The Court would also  
18 entertain a motion, briefing and argument as to why it may be inappropriate or inconvenient to  
19 adjudicate the matter by means of a defendant class.

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

25 SO ORDERED.

26  
27 Dated DEC 21 2001

28   
CONRAD L. RUSHING  
Judge of the Superior Court

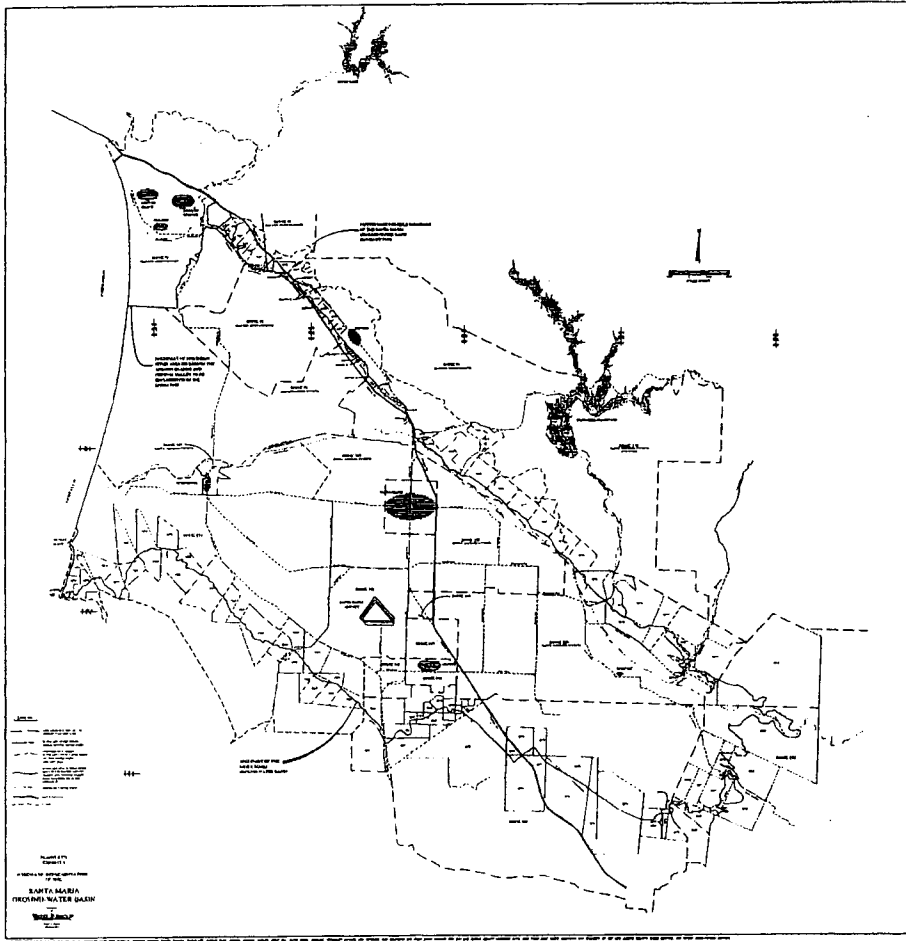


EXHIBIT B  
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**FILED**

JAN 25 2002

MARK TORRES  
Clerk of the Superior Court  
Deputy  
BY: [Signature] DEPUTY

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
DEPARTMENT 17C

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SANTA MARIA VALLEY WATER  
CONSERVATION DISTRICTS, a  
public entity,

Plaintiff,

vs.

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

Defendants,

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.

AND RELATED CROSS-ACTIONS

IT IS HEREBY ORDERED:

The Court shall not be holding a hearing with respect to the brief of Conoco, Inc., Nuevo Energy Company, Aera 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 aids in further proceedings in this matter.

SO ORDERED.

Dated: JAN 25 2002

[Signature]  
CONRAD L. RUSHING  
Judge of the Superior Court

TOTAL P.00:

THE LAW OFFICES OF  
**Young Wooldridge, LLP**  
A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION

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9 Nuevo Energy Company, Aera Energy LLC  
10 and ChevronTexaco

*Enclosed*  
**FILED**  
JAN 17 2002  
BY Nelli Gago CLERK

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF SANTA CLARA

13 SANTA MARIA VALLEY WATER )  
14 CONSERVATION DISTRICT, a public )  
15 entity, )  
16 Plaintiff, )

17 vs. )

18 CITY OF SANTA MARIA, et al )

19 Defendants. )

20 AND RELATED CROSS-ACTIONS )

SANTA MARIA GROUNDWATER  
LITIGATION

Lead Case No. CV 770214

Judge Conrad L. Rushing

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

24 I.

25 INTRODUCTION

26 This Brief is filed on behalf of Defendants/Cross-Complainants Conoco Inc., Nuevo Energy  
27 Company, Aera Energy LLC and Texaco Exploration and Production Inc. and Chevron USA Inc.  
28

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

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

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

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26 <sup>1</sup> The Oil Group parties alleged as a affirmative defense, as against each cross-complainant, that  
27 the Santa Maria Basin boundary as alleged in the cross-complaints were insufficiently described  
28 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).



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. Taegart (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.

<sup>2</sup> 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 aquifers 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

1 these specific findings and determinations, the Court has clearly held that the Basin boundary is  
2 that area interior to the solid magenta line depicted on Exhibit 5.

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4 However, in that portion of the Order addressing those parcels which are touched or  
5 intersected by the adjudicated Boundary Line, the Court utilizes a significantly different  
6 definition. For example, the Order provides that the "Basin shall also include for purposes of  
7 adjudication herein all those parcels of land, which are shown on Exhibit 5 and listed on Exhibit  
8 6 . . . to the full extent of the perimeter of such parcels." (Order, page 2). (Emphasis added.)

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10 "Thus, at this time, until further order, the Court orders that those parcels are to be considered  
11 within the Basin." (Order, page 2). (Emphasis added.) Under this definition, the Basin  
12 boundary could be construed to be that area interior to the solid orange line representative of the  
13 several Assessors' Parcel Lines depicted on the Exhibit 5 and not the solid magenta identified by  
14 Mr. Wagner and Mr. Scalmanini. Such a construction is directly contradicted by the Court's  
15 specific findings and determinations regarding the Basin Boundary and this Court's earlier order  
16 adjudicating the "outermost lateral boundary" of the Basin. (Summary Judgment Order, page 2.)

17  
18 Further, such a construction is not consistent with the Court's stated rationale for  
19 conditionally including the entirety of such parcels in this adjudication. Specifically, the Court's  
20 Order provides that, at this time and pending further briefing and order from the Court, that such  
21 parcels should be included in the area adjudicated by this groundwater litigation. Importantly,  
22 the Court has indicated that, while not deciding any such matters, such parcels may raise further  
23 legal issues regarding the use of water from the Basin. Therefore, while the Court has held that  
24 the full extent of the perimeter of such parcels should, at this time, be included in the area the  
25 subject of this groundwater adjudication, not all such lands have been found by the Court to be  
26 within the limits of the adjudged Basin Boundary as depicted on Exhibit 5. Importantly, the  
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1 Court has made no determination with regard to the rights of such parcels and landowners to the  
2 use of water from the Basin.

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

10  
11 **III.**

12 **CONCLUSION**

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

17 (1) That the boundary of the Basin is as depicted on the Exhibit 5 to the Declaration of  
18 Robert C. Wagner, dated November 20, 2001. Specifically, the boundary of the Basin is that line  
19 identified on the legend to the map as "boundary of the Santa Maria Ground-Water Basin"  
20 depicted on the map as a solid magenta colored line;


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22 (2) That the Basin boundary is not that line identified on the legend to the map as the  
23 "Assessors' Parcel Lines" depicted on the map as a solid orange colored line;

24  
25 (3) that those parcels identified on Exhibit 5, which either touch or are intersected by the  
26 Boundary Line, are until further order of this Court, provisionally included for purposes of  
27 adjudication in this case; and  
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(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:   
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ChevronTexaco, Nuevo Energy Company, and  
Aera Energy LLC