

# Exhibit 1B

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

DEPARTMENT 17

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

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:

Nipomo 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 thereto<sup>1</sup>. (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-

<sup>1</sup>The 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

CMS  
**FILED**  
DEC 21 2001  
MINI TORRE  
Clerk of the Court  
Superior Court of Santa Clara  
BY: [Signature] DEPUTY

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

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.secomplex.org/docfiles/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.

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

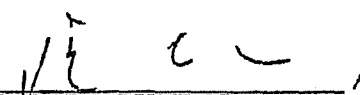
1 determined in this litigation will apply to situations that might occur in other than a "best case"  
2 scenario. Future conditions could produce adverse impacts, such as drought, earthquake, failure of  
3 the Lopez Reservoir, or failure of the Northern Cities for other reasons to adhere to the so-called  
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.

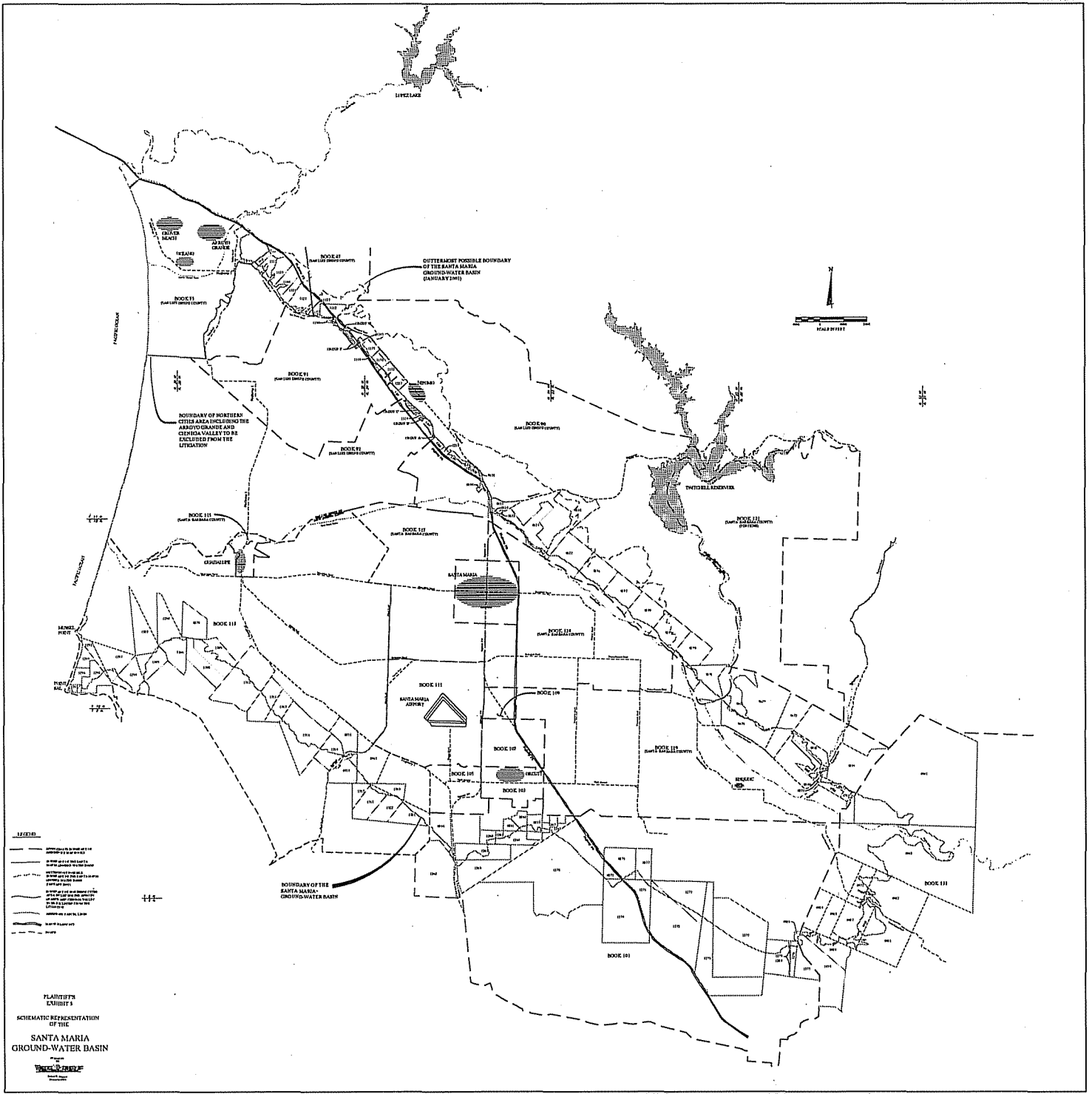
20 Any litigant now in the action who is asserting a quiet title claim concerning property outside  
21 of the Boundary Line must move for severance of that claim from this action and must file such a  
22 motion on or before thirty (30) days following service of this Order. Any such claims for which 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







***Note:** Pursuant to the Court's Order, July 16, 2007, pages 10 through and including 16 of Exhibit 1B to the Stipulation, dated June 30, 2005, have been removed and replaced with this page.*

## CONCLUSION

In light of this Court's prior orders and decrees, the provisions of the Order, and the above-cited 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; and

(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.