

“Santa Maria Groundwater Litigation Moves to Phase II Determination”

BY STEPHANIE OSLER HASTINGS

The collection of cases commonly referred to as the “Santa Maria Groundwater Litigation” recently concluded a “Phase I” trial and is scheduled to proceed with Phase II in October of this year. The consolidated litigation, initiated in 1997 when the Santa Maria Valley Water Conservation District filed suit against the City of Santa Maria and other water purveyors in northern Santa Barbara and southern San Luis Obispo Counties, now includes nearly 800 parties who are believed to have competing claims to pump groundwater from a common source, namely, the Santa Maria Groundwater Basin.

By order dated January 9, 2001, the Court brought Phase I to a close when it concluded that there is no disputed issue of material fact as to the “outermost” basin boundary of the Santa Maria Groundwater Basin and entered judgment on that issue. With some minor exceptions, the court concluded that the outermost lateral and vertical boundaries of the basin lie along the divide between those geologic materials that do not readily transmit water (e.g., they are impermeable) and those that do. Thus, the “outermost” basin boundary definition is based almost entirely on geologic factors. Very generally, the “outermost” lateral boundary of the basin begins just north of the northern or Five Cities area, continues south along the Pacific coast, east along the Solomon Hills to the Sisquoc plains, and north again along the eastern border of the Santa Maria River.

In conjunction with its order adjudicating the “outermost” boundaries of the Santa Maria Groundwater Basin, the Court also issued an order designating the issues to be tried in Phase II of the litigation - specifically, the limits of the area that will be included in the remainder of the case and that which may be excluded. In other words, the Phase II trial may result in a determination that the area that will be subject to the adjudication is something different or smaller than the undisputed geologic definition of the basin.

In determining the area to be adjudicated, the Court left open the possibility that non-geologic factors such as hydrology, geography, land use and pumping patterns, and potentially other political considerations may influence its Phase II determination. While factors like these have in the past influenced basin boundary definitions for purposes of adjudication, the criteria developed through this phase of the litigation must result in a definition of the groundwater basin that provides each and every claimant to water with certainty, predictability and reliability in their water supplies, as well as finality of all adverse claims. The effort and expense of pursuing a groundwater adjudication is too great for any party to risk the potential that its water right secured by the adjudication might later be diminished should conditions change which impair the quantity or quality of water available to them. Thus, the decision to choose one boundary line

over another for purposes of this adjudication could have dramatic legal consequences.

In the end, it is anticipated that Phase II of the Santa Maria Groundwater Litigation will provide the parties with a precise definition of the property at issue, and thus a better understanding of the issues in dispute. It will necessarily identify all proper claimants and provide a baseline for determining the existence and extent of overdraft, as well as the basin’s annual safe yield, upon which individual entitlements might later be quantified.

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