

Case Study 2: Orcutt, Northern Santa Barbara County

The community of Orcutt provides an example of using an adjudication to resolve a crisis. While the court has issued an order in the adjudication that requires a “physical solution” (acquiring more water), the adjudication did not represent a proactive, long-term management approach to groundwater overdraft.

Background

Groundwater comprises 83 percent of the water supply for communities along the Central Coast of California.¹ Orcutt is an unincorporated community located in northern Santa Barbara County. Historically an agricultural area, this community is being rapidly converted to residential and commercial land uses. Orcutt’s water supply is primarily groundwater drawn from the underlying Santa Maria Groundwater Basin (Figure 3).

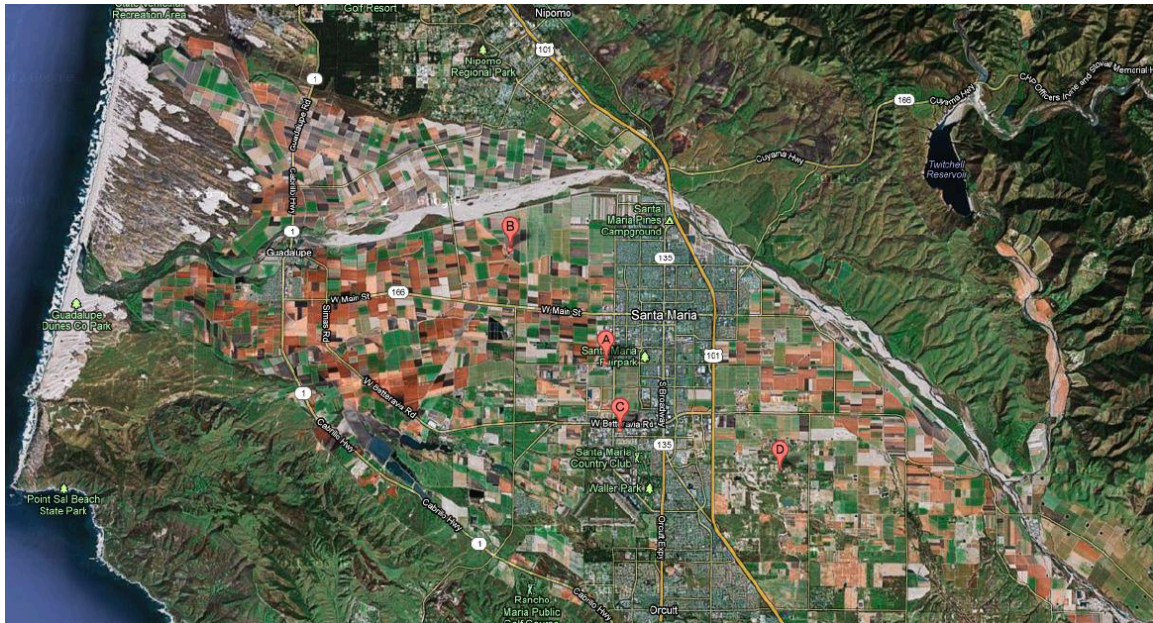


Figure 3. Southern portion of the Santa Maria Groundwater Basin. Source: Brownstein Hyatt Farber Schreck, LLP

In response to ongoing litigation regarding the Santa Maria basin and perceived basin overdraft, the Orcutt Community Plan, when released in 1997, enacted a new water policy (WAT-0-2) requiring that water demand from new discretionary development must be offset by “supplemental water.” This supplemental water must come from other sources besides groundwater.² To meet this requirement, developers have been purchasing State Water Project water from the city of Santa Maria — currently the most feasible option for supplemental water — at a one-time

¹ California Department of Water Resources, “Bulletin 118 – Update 2003.” Available at water.ca.gov/groundwater/bulletin118/update2003.cfm.

² Orcutt Community Plan, Santa Barbara County Planning and Development, adopted July 1997.

cost of \$25,000 per acre-foot. As an unintended consequence, the ability to sell or withhold supplemental water has given Santa Maria some ability to influence land use changes in unincorporated Orcutt.

In 2005, the court responded to a lawsuit seeking an adjudication of the Santa Maria basin by approving a written stipulation, setting forth a physical solution agreed to by a majority of the parties.³ Significantly, the court did not order reductions in groundwater pumping, but rather required that new users obtain supplemental or “developed” water — including various forms of artificial recharge — instead of “native” groundwater. In addition to the stipulation, the court established groundwater rights and required groundwater monitoring and reporting for the basin. The court also upheld Orcutt’s supplemental water requirement.⁴

What is the outcome?

The stipulated agreement is currently the mechanism in place to manage groundwater in the Santa Maria basin. Under the agreement, developers pay for supplemental water for urban development. Agriculture, which uses the majority of the groundwater from the basin, has overlying rights to use groundwater without limitation unless a “several water shortage” occurs. The present situation will continue until groundwater monitoring indicates a severe water shortage, at which point all parties will go back to court for another court-based solution. The agreement calls for continuing judicial oversight because overdraft is a “reasonable certainty” for the basin in the future.

In other words, the adjudication has been about responding to crisis rather than about achieving long-term sustainable groundwater management. While the stipulated agreement could be considered a form of groundwater management, it governs water rights and water accounting only, and perpetuates existing uses and groundwater impacts. It is not, nor is it intended to be, a comprehensive management plan to guide long-term regional and community planning.

What is the primary lesson to be drawn from this case study?

Adjudication is a solution to a crisis, but it tends to be a short-term answer to the larger groundwater problem. To be successful, it must be complemented by a long-term approach that manages groundwater resources in concert with regional land use planning. What is needed is a community vision that is consistent with available water resources, and a plan to implement this vision. The process to date has not directly addressed the issue of groundwater depletion. Water supply — in this case,

³ A “physical solution” has been defined by the court as “an equitable remedy designed to alleviate overdrafts and the consequential depletion of water resources in a particular area, consistent with the constitutional mandate to prevent waste and unreasonable water use and to maximize the beneficial use of this state’s limited resource.” *California American Water v. City of Seaside (2010) 183 Cal.App.4th 471, 480.*

⁴ *Santa Maria Valley Water Conservation District v. City of Santa Maria, et al (Lead Case No. CV 770214; consolidated with Case Nos.: CV 784900, 784921, 784926, 785509, 785511, 785515, 785522, 785936, 786791, 787150, 787151, 787152).*

groundwater — should be engaged as part of a public planning process that takes into account the water demands and supplies needed to guide a community's vision for the future. A broad planning framework already exists in the shape of the county general plan. An initial step would be to create a water element containing the goals and objectives for water management of the community and county and bring together the pieces currently contained within the conservation element and other parts of the general plan.