



Friends of the Santa Clara River

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May 4, 2006

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Ventura Chapter

Ventura County Environmental Coalition

Wishtoyo Foundation

Re: SB 610 Water Supply Assessment for the Gate-King Project

Dear Mr. Hogan,

Friends of the Santa Clara River is a participant in the Upper Santa Clara River Chloride TMDL Collaborative Process and we are quite aware of the chloride issue regarding Santa Clarita's wastewater reclamation plants. The chloride issue was one of the causes of action in our recent legal complaint against Castaic Lake Water Agency's (CLWA) Urban Water Management Plan. Further, we are cognizant of the Regional Water Quality Control Board's (RWQCB) Complaint against the County Sanitation Districts of Los Angeles County regarding Valencia Water Reclamation Plant's (WRP) exceeding its waste discharge requirement for both chloride and cyanides in 2005.

We are sending by separate email three documents that relate to the above:

- (1) A presentation by the United Water Conservation District to the Technical Working Group of the Upper Santa Clara River Collaborative Process on chloride levels in the Santa Clara River.
- (2) Legal complaint by ourselves and the California Water Impact Network against the 2005 CLWA Urban Water Management Plan.
- (3) Cover letter and Complaint from the RWQCB concerning chloride and cyanide discharges from the Valencia WRP.

1

It is abundantly clear to any objective observer that continuing to approve development projects in the City of Santa Clarita can do nothing but exacerbate the whole chloride problem, since the imported water needed for these projects is high in chlorides and is a definite contributor to chloride discharges from the reclamation plants. Approvals should be suspended pending a resolution of the chloride problem.

Thank you for your consideration of these comments.

Sincerely,

Ron Bottorff, Chair

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6 CALIFORNIA WATER IMPACT NETWORK and
FRIENDS OF THE SANTA CLARA RIVER
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF VENTURA

10 CALIFORNIA WATER IMPACT NETWORK) Civ. No.
and FRIENDS OF THE SANTA CLARA)
11 RIVER,)
)
12) **VERIFIED PETITION FOR WRIT**
Petitioners/Plaintiffs,) **OF MANDATE AND COMPLAINT**
) **FOR DECLARATORY AND**
13 v.) **INJUNCTIVE RELIEF**
)
14 CASTAIC LAKE WATER AGENCY,)
NEWHALL COUNTY WATER DISTRICT,)
15 CLWA SANTA CLARITA WATER DIVISION,)
VALENCIA WATER COMPANY, and DOES)
16 1-20, inclusive,)
)
17 Respondents/Defendants,)
Real Parties in Interest)
18)

19 By this verified petition petitioners/plaintiffs represent:

20 **PRELIMINARY STATEMENT**

21 1. Petitioners/plaintiffs (“petitioners”) California Water Impact Network and Friends
22 of the Santa Clara River bring this action to protect the extraordinary beauty, threatened water
23 quality, endangered fish and wildlife, and outstanding recreational values and agricultural
24 resources of the Santa Clara River and its watershed. These resources have been placed in
25 jeopardy as a result of respondents/defendants’ adoption of their 2005 Urban Water
26 Management Plan (“UWMP”) that proposes excessive groundwater pumping and excessive
27 reliance on uncertain water deliveries from the State Water Project (“SWP”) to provide water for
28 rapid, unsustainable urban growth within the Santa Clara River Valley.

1 2. The Santa Clara River is the largest river system along the coast of Southern
2 California that still remains in a relatively natural state. Flowing 100 miles and draining a
3 watershed of 1,620 square miles, the Santa Clara River is Southern California’s last major wild
4 river, with no dams on its main stem. Sespe Creek, a major tributary inhabited by southern
5 steelhead trout, is the only river in Southern California designated a National Wild and Scenic
6 River. The remaining riparian habitats along the Santa Clara River provide an important
7 biological resource, due to their rarity, diversity, and vulnerability. They provide an important
8 linkage allowing for wildlife movement between the Pacific Coast, Santa Susana, and San
9 Gabriel mountains, high desert, and southern Sierra mountains.

10 3. The most significant threat to the ecological integrity of the Santa Clara watershed
11 is increased urbanization. In 2005 the Santa Clara River was named as one of the county’s ten
12 most endangered rivers by American Rivers, a national conservation group, due to ecological
13 harm from existing and proposed urban development. Impacts to this watershed from ongoing
14 and threatened urbanization include (1) reduced stream flow, (2) diminished groundwater
15 supplies, (3) impaired water quality, (4) increased siltation, (5) loss of stream habitat, and (6)
16 reduction or elimination of populations of threatened and endangered species.

17 4. On December 6, 2005, respondents Castaic Lake Water Agency, Newhall County
18 Water District, CLWA Santa Clarita Water Division, and Valencia Water Company
19 (collectively, “respondents”) submitted the subject UWMP for the Santa Clara River Valley to
20 the California Department of Water Resources (“DWR”), purportedly in compliance with the
21 requirements of the Urban Water Management Planning Act (“UWMPA”), Water Code section
22 10610 *et seq.* The UWMPA requires water agencies to adopt water management plans to assure
23 that they (1) investigate constraints on water supply and accurately report water demands and
24 supplies for their service areas, (2) make efficient use of available water supplies, (3) develop
25 plans to provide long-term, reliable supplies of water to serve customers during normal, dry, and
26 multiple dry water years, and (4) develop demand management programs to keep water demands
27 in line with supplies. Respondents’ UWMP fails to comply with the UWMPA’s requirements,
28 particularly those set forth in Water Code section 10631, which is summarized below.

1 5. Water Code section 10631 establishes detailed requirements for water management
2 plans, directing, *inter alia*, that they

3 (a) “[d]escribe the service area of the [water] supplier, including current and
4 projected population, climate, and other demographic factors affecting the supplier’s water
5 management planning;”

6 (b) “[i]dentify and quantify, to the extent practicable, the existing and planned
7 sources of water available to the supplier,” including detailed information respecting existing
8 and planned use of groundwater;

9 (c) “[d]escribe the reliability of the water supply and vulnerability to seasonal
10 or climatic shortage” of supplies in average, dry, and multiple dry water years, and “[f]or any
11 water source that may not be available at a consistent level of use, given specific *legal,*
12 *environmental, water quality, or climatic factors,* describe plans to supplement or replace that
13 source with alternative sources or water demand management measures” (emphasis added);

14 (d) “[d]escribe the opportunities for exchanges or transfers of water on a short-
15 term or long-term basis;”

16 (e) quantify past, current, and projected water use, broken down by specific
17 water use sectors;

18 (f) “[p]rovide a description of the supplier’s water demand management
19 measures,” including detailed information respecting their implementation with respect to a
20 wide array of existing or potential management practices;

21 (g) provide “[a]n evaluation of each water demand management measure
22 identified;”

23 (h) “[i]nclude a description of all water supply projects and water supply
24 programs that may be undertaken by the urban water supplier to meet the total projected water
25 use,” including “a detailed description of expected future projects and programs” that may be
26 employed to increase future water supplies;

27 (i) “[d]escribe the opportunities for development of desalinated water;” and
28

1 (j)-(k) provide additional information regarding water supply and demand
2 management measures.

3 6. Contrary to these and other requirements of the UWMPA, respondents' UWMP
4 purports to sanction rapid urban development throughout the Santa Clara River Valley. The
5 demand for water from this growth would exceed the groundwater and surface water supplies
6 actually available to respondents. By overstating surface and groundwater supplies, and thereby
7 increasing the likelihood of future overdrafting of the groundwater supplies that flow into and
8 otherwise support the fish and wildlife, vegetation, natural flow, and related public trust
9 resources of the Santa Clara River, respondents' UWMP would harm petitioners' use and
10 enjoyment of this river and its scenic, biologic, scientific, recreational and other public trust
11 resources. Respondents' UWMP contravenes the UWMPA, the Public Trust Doctrine, and
12 other relevant laws in that, among other deficiencies, it:

13 a. Fails to provide an adequate discussion of perchlorate contamination and
14 remediation, in violation of Water Code section 10631, subdivisions (a)-(c), and the Fifth
15 District Court of Appeal's ruling in *Friends of the Santa Clara River v. Castaic Lake Water*
16 *Agency* (2004) 123 Cal.App.4th 1, 12-15 ("*Friends IP*").

17 b. Improperly relies on a questionable transfer of 41,000 acre feet annually
18 ("afa") of water from a subsidiary of the Kern County Water Agency ("KCWA"), in violation of
19 Water Code section 10631, subdivisions (a)-(d) and (h). This transfer is dependent on a contract
20 between the State Water Project contractors and the California Department of Water Resources
21 ("DWR") known as the "Monterey Agreement." The Third District Court of Appeal decertified
22 the EIR on the Monterey Agreement in *Planning and Conservation League v. California*
23 *Department of Water Resources* (2000) 83 Cal.App.4th 892, 898 ("*PCL v. DWR*"). The Second
24 District Court of Appeal decertified the original EIR on this transfer in *Friends of the Santa*
25 *Clara River v. Castaic Lake Water Agency* (2002) 95 Cal.App.4th 1373, 1384-1388 ("*Friends*
26 *P*"), and ruled in *California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th
27 1219, 1236-1242 ("*California Oak*"), that agencies may not uncritically rely on this uncertain
28 supply. CLWA's current EIR on this transfer is challenged in two pending lawsuits.

1 c. Erroneously relies, in violation of Water Code section 10631, subdivision
2 (c), on DWR's flawed CALSIM II modeling for SWP deliveries, despite its severe shortcomings
3 as documented in (1) the comments submitted by the Chairman of the U.C.L.A. Department of
4 Statistics to CLWA in October 2005, (2) a previous peer review by scientists in 2003, and (3)
5 the U.S. District Court for the Northern District of California in issuing a preliminary injunction
6 against the U.S. Bureau of Reclamation's reliance on this model to justify approval of its Central
7 Valley Project – SWP Intertie Project in the matter *Planning and Conservation League v. United*
8 *States Bureau of Reclamation* No. C05-3527 CW filed February 14, 2006.

9 d. Fails to address foreseeable declines in SWP deliveries due to global
10 warming in violation of Water Code section 10631, subdivisions (a)-(c), despite undisputed
11 evidence, including the testimony of U.C. Santa Cruz Emeritus Professor Robert R. Curry that
12 petitioners provided to CLWA on December 8, 2004, documenting accelerating declines in
13 Sierra summer snow pack and reservoir storage and in the frequency of dry and critically dry
14 water years.

15 e. Fails to address the cumulative adverse watershed effects on the ongoing
16 rapid urbanization of the Santa Clara River watershed including increased urban runoff from
17 impervious and contaminated surfaces, and reduced percolation to and storage of precipitation in
18 groundwater reservoirs, resulting in impaired surface and groundwater quality and quantity, in
19 violation of Water Code section 10631, subdivisions (a), (c), (e), (f), and (g).

20 f. Fails to address the substantially reduced SWP deliveries (during both
21 spring and summer flows) to CLWA due to the stringent minimum flow and maximum salinity
22 standards adopted by the State Water Resources Control Board in its 1995 Water Quality
23 Control Plan for the San Francisco Bay and Sacramento and San Joaquin Rivers ("Bay-Delta
24 Plan"). The Third District Court of Appeal in the matter *State Water Resources Control Board*
25 *Cases*, ___ Cal.App.4th ___, 2006 WL 302246, 06 Cal.DailyOp.Serv. 1218 (February 9, 2006)
26 confirmed that these water quality standards limit the quantity of water that DWR may export
27 from the Delta to CLWA. Ignoring the 1995 Day-Delta Plan, the UWMP erroneously
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1 characterizes as certain and available, water supplies whose certainty of delivery was, and
2 remains, doubtful, in violation of Water Code section 10631, subdivisions (a)-(c).

3 g. Fails to identify and assess the impact of private wells in the Santa Clara
4 River watershed on existing and future water supplies, and the impact of planned urban growth
5 and its resulting water demand on those wells, and vice versa, in violation of Water Code
6 section 10631, subdivisions (a)-(c) and (e)-(h).

7 h. Violates the Public Trust Doctrine due to respondents' failure to conduct a
8 proper UWPA review and to employ all reasonable means to protect the Santa Clara River's
9 year-round flows and the scenic, fish and wildlife, and recreational resources dependent thereon.

10 7. Because respondents' UWMP overstates available groundwater and surface water
11 supplies, in relation to projected future urban demand, it encourages and allows unsustainable
12 urban development that would outstrip those supplies, harming the Santa Clara River and its
13 dependent scenic, fish and wildlife, and agricultural and recreational uses. Because these
14 harmful impacts on the Santa Clara River's watershed would injure petitioners, petitioners seek
15 this Court's order setting aside respondents' UWMP as contrary to law and the record evidence
16 in this matter.

17 VENUE AND JURISDICTION

18 8. This verified petition and complaint is authorized by Water Code section 10650 *et*
19 *seq.* and Code of Civil Procedure section 1085 *et seq.* Its request for declaratory relief is
20 authorized by Code of Civil Procedure section 1060. Its request for injunctive relief is
21 authorized by Code of Civil Procedure sections 526 and 527 and Civil Code section 3422.

22 9. Venue is appropriate in Ventura County because CLWA's service area extends into
23 Ventura County, and respondents' threatened overuse of the ground and surface water resources
24 of the Santa Clara River would harm the water quality and quantity of such river and the scenic,
25 fish and wildlife, agriculture, and recreational uses dependent thereon that are situated
26 downstream within Ventura County. Under Code of Civil Procedure sections 393(1)(a) and (b),
27 respondents may be sued in the County of Ventura because petitioners' cause of action thus
28

1 arose therein. Under Code of Civil Procedure section 395(a), respondents may be sued in the
2 County of Ventura because a portion of CLWA's water service is located within said county.

3 **PARTIES**

4 10. Petitioner California Water Impact Network is a non-profit public benefit
5 corporation formed under the laws of the State of California for the purpose of protecting and
6 restoring the scenery, fish and wildlife resources, water quality, recreational opportunities,
7 agricultural uses, and other natural environmental resources and uses of the rivers and streams of
8 California, including the Santa Clara River, its watershed and its underlying groundwater
9 resources. Members of the California Water Impact Network reside in, use, and enjoy the Santa
10 Clara River watershed. They use the Santa Clara River for nature study, recreation, and
11 aesthetic enjoyment. CLWA's approval of the UWMP harms the California Water Impact
12 Network and its members by threatening impairment of their use and enjoyment of the Santa
13 Clara River, its watershed, and its groundwater resources.

14 11. Petitioner Friends of the Santa Clara River is a non-profit public benefit corporation
15 founded under the laws of California and comprising affiliated environmental organizations
16 within the watershed of the Santa Clara River including but not limited to the Ventura Audubon
17 Society, the Angeles and Los Padres Chapters of the Sierra Club, the California Native Plant
18 Society, the Surfriders Foundation, and the Santa Clarita Organization for Planning the
19 Environment. Some of its members reside within the service areas of respondents and are
20 ratepayers of respondents. Friends of the Santa Clara River is concerned about the declining
21 ground and surface water supplies within the Santa Clara River Valley, and the threatened
22 overuse of such resources by respondents pursuant to their UWMP. Friends of the Santa Clara
23 River is also concerned about respondents' inability to serve existing and future customers and
24 at the same time maintain adequate surface waters and groundwaters within the Santa Clara
25 River watershed as necessary to support dependent fish and wildlife, agriculture, and
26 recreational uses. Respondents' approval of the UWMP harms the interests of Friends of the
27 Santa Clara River and its members because it threatens impairment of their use and enjoyment
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1 of the surface waters and groundwaters of the Santa Clara River Valley and the scenic resources,
2 fish and wildlife, and recreational uses dependent thereon.

3 12. All petitioners are beneficially interested in respondents' compliance with their
4 duties and responsibilities under applicable laws including the UWMPA and the Public Trust
5 Doctrine. Petitioners are beneficially interested in respondents' performance of their duty under
6 Code of Civil Procedure section 1085 *et seq.* to comply with all applicable laws and to consider
7 rationally and in good faith all relevant record evidence in preparing and adopting their UWMP.

8 13. The Castaic Lake Water Agency ("CLWA") is a public water agency and water
9 wholesaler that treats and delivers water to water retailers, including Los Angeles County Water
10 Works District No. 36, and respondents Newhall County Water District, CLWA Santa Clarita
11 Water Division, and Valencia Water Company. CLWA is located in the northwestern portion of
12 Los Angeles County and eastern Ventura County. Its area of wholesale service covers
13 approximately 195 square miles, including 20 square miles of wholesale service in
14 unincorporated portions of Ventura County. CLWA approved the subject UWMP on or about
15 November 9, 2005.

16 14. The Newhall County Water District ("NCWD") is a district formed by election
17 under the County Water Districts Act (Division 12) of the California Water Code. The Newhall
18 County Water District is a retail water purveyor serving an area of approximately 34 square
19 miles, and supplies groundwater pumped from wells supplemented by water purchased from
20 CLWA. NCWD approved the subject UWMP on or about November 9, 2005.

21 15. The CLWA Santa Clarita Water Division ("SCWD") is the retail division of
22 CLWA. SCWD's service area includes portions of the City of Santa Clarita and unincorporated
23 areas of Los Angeles County in the communities of Saugus, Canyon Country, and Newhall.
24 SCWD supplies water from both groundwater wells and State Water Project water distributed by
25 CLWA. SCWD approved the subject UWMP on or about November 9, 2005.

26 16. The Valencia Water Company ("Valencia") is a California corporation and a
27 retailer of water that is wholly owned by the Newhall Land and Farming Company, a California
28 limited partnership. Valencia supplies water for its customers primarily from two sources:

1 groundwater from the Santa Clara River's alluvial aquifer and the underlying Saugus Formation
2 and imported water from the State Water Project delivered by CLWA. Valencia serves portions
3 of the City of Santa Clarita, the master-planned community of Valencia (a development of the
4 Newhall Land and Farming Company) and the unincorporated areas of Castaic and Stevenson
5 Ranch. Valencia approved the subject UWMP in or about November, 2005.

6 17. Petitioners are currently unaware of the true names and capacities of Does 1-10,
7 inclusive, and, therefore, sue those parties by such fictitious names. Does 1-10, inclusive, are
8 agents of the respondents or are responsible in some manner for the conduct described in this
9 petition. Petitioners will amend this petition to state the true names and capacities of the
10 fictitiously named parties if and when the same have been ascertained.

11 18. Does 11-20, inclusive, are persons or other entities that are presently unknown to
12 petitioners at this time who are real parties in interest or otherwise claim an interest in the
13 subject matter of this action sufficient to render their participation necessary for an adjudication
14 of the issues raised herein. Petitioners are currently informed and believe that there are no such
15 parties but will amend this pleading to show their true names and capacities if any are
16 ascertained.

17 19. Respondents CLWA, NCWD, SCWD, and Valencia jointly caused to be prepared
18 an urban water management plan required by Water Code section 10610 *et seq.* This plan,
19 entitled "2005 Urban Water Management Plan," was adopted by CLWA's Resolution No. 2435
20 and by resolutions of the other respondents, on or about November 9, 2005. Respondents
21 submitted the UWMP to the California Department of Water Resources ("DWR") on or about
22 December 6, 2005.

23 20. In October 2005 and on other occasions petitioners, public agencies, other
24 organizations and members of the public submitted comments regarding the deficiencies in the
25 content, analysis, and conclusions of the UWMP, including the deficiencies addressed in this
26 petition.
27
28

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 21. Petitioners have performed any and all conditions precedent to the filing of this
3 petition, and have participated in all phases of the administrative, legislative, and environmental
4 review process preceding respondents' adoption of the UWMP, and thus have fully exhausted
5 their administrative remedies prior to instituting this proceeding.

6 22. Respondents have taken final agency action with respect to their approval of the
7 UWMP challenged herein. Petitioners possess no remedy to challenge respondents' approvals
8 of the UWMP at issue in this proceeding other than by means of this lawsuit.

9 **NOTICE TO THE ATTORNEY GENERAL**

10 23. Petitioners served this Verified Petition for Writ of Mandate and Complaint for
11 Declaratory and Injunctive Relief on the California Attorney General in accordance with Code
12 of Civil Procedure section 388.

13 **RELIEF REQUESTED**

14 24. Petitioners seek a peremptory writ of mandamus, declaratory relief, temporary and
15 permanent injunctive relief, costs, and attorney's fees. Petitioners seek a peremptory writ of
16 mandate pursuant to (1) Water Code section 10651, which provides that judicial review of an
17 urban water management plan shall address whether the respondent has proceeded in the manner
18 required by law and if its action is supported by substantial evidence, and (2) Code of Civil
19 Procedure section 1085, which provides that a writ of mandate "may be issued by any court . . .
20 to any inferior tribunal, corporation, board, or person, to compel the performance of an act
21 which the law specially enjoins, as a duty resulting from an office, trust, or station."

22 25. Petitioners request declaratory relief pursuant to Code of Civil Procedure section
23 1060, which provides, in pertinent part, that "[a]ny person . . . who desires a declaration of his or
24 her rights or duties with respect to another . . . may, in cases of actual controversy relating to the
25 legal rights and duties of the respective parties, bring an original action, in the superior court
26 . . . for a declaration of his or her rights and duties in the premises . . ." Petitioners also request
27 temporary and permanent injunctive relief pursuant to Code of Civil Procedure sections 526 and
28 527 and Civil Code section 3422, which authorize this Court to issue temporary and permanent

1 injunctive relief where, as here, the respondents have violated duties owed to the petitioners and
2 threaten unlawful action which might cause irreparable harm to the petitioners.

3 26. Petitioners also seek recovery of their attorney's fees and litigation costs pursuant to
4 Code of Civil Procedure sections 1021.5 and 1032, and Government Code section 800.
5 Petitioners are entitled to recover reasonable attorney's fees under each of their causes of action
6 herein pursuant to Code of Civil Procedure section 1021.5, in that the successful disposition of
7 this Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief
8 and Attorney's Fees will result in the enforcement of an important right affecting the public
9 interest; a significant benefit will be conferred upon the general public and a large class of
10 persons arising from enforcement of state laws and regulations protecting the quantity and
11 quality of the State's waters and associated public trust interests; and the necessity and financial
12 burden of private enforcement are such as to make the award appropriate. Petitioners are also
13 entitled to recover their attorney's fees pursuant to Government Code section 800, which
14 authorizes the award of up to \$7,500 in attorney's fees to petitioners in actions to overturn
15 agency actions, such as those at issue herein, that are arbitrary and capricious. Additionally,
16 petitioners request reimbursement of their litigation costs pursuant to Code of Civil Procedure
17 section 1032, subdivision (b), which provides in pertinent part that: "[e]xcept as otherwise
18 expressly provided by statute, a prevailing party is entitled as a matter of law to recover its costs
19 in any action or proceeding."

20 **FIRST CAUSE OF ACTION**

21 (Writ of Mandate, Declaratory and Injunctive Relief
22 to Set Aside Respondents' Approval of UWMP as Contrary to the UWMPA)

23 (Alleged by All Petitioners Against All Respondents/Defendants/
24 Real Parties in Interest)

25 27. Petitioners hereby reallege and incorporate herein by reference the paragraphs set
26 forth above, as if fully set forth herein.

27 28. The UWMPA requires respondents to prepare and adopt an urban water
28 management plan containing detailed information and analysis sufficient to assure that current

1 and future water supplies are adequate to provide for current and projected populations within
2 the water agency's service area. See Water Code §§10620-10656.

3 29. In adopting the UWMP, respondents proceeded without or in excess of their
4 jurisdiction, committed an abuse of discretion, failed to proceed in the manner required by law,
5 and failed to make supporting findings that are in turn supported by substantial evidence in light
6 of the whole record, as alleged more specifically hereinbelow.

7 **Cumulative Impacts Ignored**

8 30. The UWMP fails to address the cumulative adverse watershed impacts of the
9 ongoing and foreseeable rapid urbanization of the Santa Clara River watershed. The Santa Clara
10 River Valley is currently engulfed in rapid urban growth, resulting in a dramatic increase in the
11 acreage of surface area that is impervious. Urban development increases the percentage of
12 rainfall that runs off on streets and intermingles with roadway oils and other contaminants and
13 decreases the percolation of rainfall into the underlying aquifers, harming both the quantity and
14 quality of ground and surface waters. The UWMP fails to address this ongoing degradation of
15 the quantity and quality of surface and groundwaters within respondents' service areas. This
16 omission violates the UWMPA, which provides in section 10631, subdivision (c), that "[f]or any
17 water source that may not be available at a consistent level of use, given specific legal,
18 *environmental, water quality, or climatic factors,*" the UWMP shall "describe plans to replace
19 that source with alternative sources or water demand management measures, to the extent
20 practicable." *Id.*, emphasis added.

21 31. The UWMP fails to address the cumulative adverse impacts of private water well
22 use in the Santa Clara River watershed. Private water wells extract substantial quantities of
23 groundwater from the watershed. The UWMP fails to disclose the quantity of water extracted
24 by private water wells, and fails to evaluate both the impact of such extraction on supplies
25 available to respondents, and the reciprocal impact of respondents' groundwater pumping on the
26 private well owners' supplies. Consequently, it fails to identify and evaluate alternative sources
27 of water to mitigate the resulting reduction in groundwater supplies. These omissions violate
28 Water Code section 10631, subdivisions (a)-(c) and (e)-(h).

1 **Groundwater Contamination**

2 32. The UWMP overstates the quantity and quality of groundwater that can be
3 delivered reliably from the alluvial aquifer and the Saugus Formation within the Santa Clara
4 River Valley, in violation of Water Code section 10631, subdivisions (a)-(c). Specifically, the
5 UWMP fails to adequately address and assure the timely remediation of the growing
6 contamination of the Saugus Formation and of the alluvial aquifer by ammonium perchlorate, a
7 carcinogen whose removal from these aquifers may require hundreds or thousands of years. The
8 UWMP's failure violates the UWMPA and contravenes the ruling in *Friends II, supra*, 123
9 Cal.App.4th at 12-15.

10 **Surface Water Shortfalls**

11 33. The UWMP overstates the quantity of surface water that is reliably available for
12 delivery from the State Water Project, in violation of Water Code section 10631, subdivisions
13 (b) and (c). In particular, the UWMP assumes that a substantial portion of the SWP's "Table A"
14 allocations of State Water Project water to state water contractors ("entitlements") will be
15 delivered to CLWA, despite administrative and judicial rulings that reduce future SWP
16 deliveries and forbid uncritical agency reliance on these overstated SWP "entitlements." For
17 example, in 1995 the State Water Resources Control Board adopted the Bay-Delta Plan which
18 required substantially improved freshwater outflow from the San Joaquin and Sacramento
19 Rivers to San Francisco Bay, thereby reducing the volume of water that the SWP could divert
20 and export from the Delta for delivery to CLWA. The Third District Court of Appeal has
21 recently enforced these water quality requirements, removing any lingering doubt that SWP
22 deliveries would have to be reduced to assure compliance with these minimum instream flow
23 and maximum salinity standards. *State Water Resources Control Board Cases, supra*, 2006 WL
24 302246, 06 Cal.DailyOp.Serv. 1218. But the UWMP fails to disclose and address the impact of
25 these water quality requirements – and the resulting export restrictions – on the SWP deliveries
26 to CLWA, in violation of Water Code section 10631, subdivision (c).

27 34. The UWMP uncritically relies on a very substantial purported transfer of water –
28 41,000 acre feet *every year* – that remains under a significant legal cloud, in violation of Water

1 Code section 10631, subdivisions (b) and (c). This transfer is dependent on a contract between
2 the State Water Project contractors and the California Department of Water Resources (“DWR”)
3 known as the “Monterey Agreement.” The Third District Court of Appeal decertified the EIR
4 on the Monterey Agreement in *PCL v. DWR, supra*, 83 Cal.App.4th at 898. The Second District
5 Court of Appeal decertified the original EIR on this transfer in *Friends I, supra*, 95 Cal.App.4th
6 at 1384-1388, and ruled in *California Oak, supra*, 133 Cal.App.4th at 1236-1242 that agencies
7 may not uncritically rely on this uncertain supply. CLWA’s current EIR on this transfer is
8 challenged in two pending lawsuits. Contrary to these rulings, the UWMP again improperly
9 relies upon this 41,000 afa transfer without explaining that this transfer may be set aside or
10 withdrawn, and without evaluating alternative sources of water to replace this unreliable source,
11 in violation of Water Code section 10631, subdivision (c).

12 35. The UWMP erroneously relies on 24,000 acre-feet of SWP water purportedly
13 transferred to and stored in an aquifer beneath Semitropic Water Storage District despite
14 pending litigation challenging that storage. *California Water Network v. Castaic Lake Water*
15 *Agency* (Ventura County Superior Court Case No. CIV 215327, California Court of Appeal,
16 Second Appellate District, Division 6, Case No. B177978) (argued December 14, 2005). Due to
17 contamination of the storage facility by arsenic, radon, chromium, selenium, and other harmful
18 substances, water that has been banked by CLWA in the Semitropic storage facility may not be
19 available for recovery by CLWA through the SWP. Further, CLWA’s contractual right to this
20 water ceases in 2012. Thus, the UWMP’s unconditioned reliance on this banked water, without
21 disclosure of its potential unavailability due to legal and water quality factors, and discussion of
22 alternate supplies, violates Water Code section 10631, subdivisions (b)-(c).

23 36. The UWMP erroneously relies on DWR’s 2002 SWP Water Delivery Reliability
24 Report and 2005 Draft SWP Water Delivery Report despite those reports’ overestimates of SWP
25 water availability. For example, the 2005 Draft report estimates that water for development
26 purposes will be 77 percent reliable, despite the fact that the SWP’s deliveries averaged less than
27 50 percent of its claimed capacity for the 1990-2000 decade. Further, the Draft 2005 report is
28 unreliable because it is an incomplete draft and has never been made available for the

1 petitioners' and the public's review. The UWMP's failure to disclose to the public the flaws in
2 and unreliability of these reports contravenes the Second District Court of Appeal's ruling in
3 *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106
4 Cal.App.4th 715, 723, wherein the Court struck down the county's approval of a project whose
5 EIR gave "no hint that SWP entitlements cannot be taken at face value," and failed to undertake
6 "a serious and detailed analysis of SWP supplies." The UWMP's uncritical reliance on the
7 "paper water" in the DWR reports without disclosure of their potential unavailability due to
8 legal, environmental, and other factors, and discussion of alternate supplies, violates Water
9 Code section 10631, subdivisions (b) and (c).

10 37. The UWMP failed to adequately address the known, foreseeable declines in SWP
11 deliveries due to global warming, despite undisputed evidence, including sworn testimony
12 provided to CLWA, documenting accelerating declines in summer Sierra Nevada snow pack and
13 reservoir storage. Reduced late summer runoff leaves less stored water for use during the dry
14 months and less overall water for the SWP. The UWMP failed to disclose and assess this
15 substantial diminution in CLWA's water deliveries due to global warming. As a consequence,
16 the UWMP fails to explore and evaluate alternative means of providing substitute supplies
17 should CLWA's anticipated delivery of SWP water fall short due to global warming. The
18 UWMP's erroneous characterization of doubtful water supplies as certain and available, and
19 failure to discuss alternative supplies to cover this potential shortfall, violates Water Code
20 section 10631, subdivisions (b) and (c).

21 **Flawed SWP Delivery Model**

22 38. The UWMP uncritically relies on DWR's CALSIM II model for estimating SWP
23 deliveries and general water availability, despite severe flaws in that model. The UWMP fails to
24 disclose that a panel of peer reviewers identified significant deficiencies in the CALSIM II
25 model, stating that its results should not be viewed as reliable estimates of future water
26 availability. A. Close et al., *A Strategic Review of CALSIM II and its Use for Water Planning,*
27 *Management, and Operations in Central California* (2003), available at
28 http://science.calwater.ca.gov/pdf/CALSIM_Review.pdf. In part for these reasons, the U.S.

1 District Court for the Northern District of California granted a preliminary injunction against the
2 Delta-Mendota Canal/California Aqueduct Intertie, holding that the federal defendants could not
3 rely on the CALSIM II model to predict the intertie project's significant impacts. *Planning and*
4 *Conservation League v. U.S. Bureau of Reclamation, et al.*, Case No. C 05-3527 CW, order
5 issued February 14, 2006. The UWMP's uncritical reliance on the CALSIM II model
6 improperly portrays as certain and available water supplies that are, in fact, merely potential
7 supplies, in violation of Water Code section 10631, subdivisions (b) and (c).

8 **Impaired Water Quality**

9 39. The UWMP fails to adequately address water quality constraints on ground and
10 surface water supplies. The UWMP fails to adequately disclose, assess, and evaluate specific
11 remediation strategies to address (1) EPA's designation of 66.6 miles of the Santa Clara River as
12 water quality impaired under 33 U.S.C. section 1313(d) due to excessive levels of coliform
13 bacteria, ammonia, and chloride, (2) elevated chloride levels in SWP deliveries, and (3)
14 continuing spread of the perchlorate contamination of the alluvial and Saugus Formation
15 aquifers. This omission violates CLWA's duty under the UWMPA, Water Code section 10631,
16 subdivision (c), and the Fifth District Court of Appeal ruling in *Friends II, supra*, 123
17 Cal.App.4th at 14, that "[w]hen any water source may not be available at a consistent level of
18 use, the UWMP must describe plans to replace that source with alternative sources."
19 Respondents' failure to remedy this omission "renders the UWMP legally inadequate." *Id.*

20 **Unsubstantiated Conservation Measures**

21 40. The UWMP erroneously assumes that "conservation measures" will unfailingly
22 reduce total normal year urban water consumption by 10 percent starting in 2010 and
23 continuing, without deviation, until 2030. The UWMP fails to explain the basis for this
24 assumption, or provide any discussion of the specific steps and time line by which this assumed
25 10 percent "conservation decrease in water consumption would be achieved. The UWMP's
26 conclusion that future water supplies will satisfy future demand is based on its arbitrary 10
27 percent "conservation" discount of all future demand, and thus violates Water Code section
28

1 10631, subdivisions (b), (c), (f), and (g), and the ruling in *Friends II* that demand and supply
2 assumptions must be explained and supported. *Id.*, 123 Cal.App.4th at 13.

3 **Catastrophic Delta Levee Breach**

4 41. The UWMP erroneously assumes that the SWP would only be disabled for six
5 months following a catastrophic breach of the Delta levees protecting SWP water supplies from
6 salt water intrusion. Its six-month estimate is unexplained and unsubstantiated. Experts have
7 estimated that massive damage to the SWP's supply infrastructure could take five years to
8 repair. Because the UWMP assumes that such a catastrophic water shortage would be short-
9 lived, it fails to identify or evaluate alternative water supplies that would be sustainable for long
10 periods of shortage. This unwarranted assumption, and the UWMP's resulting failure to
11 consider alternative supplies, violate Water Code section 10631, subdivisions (b) and (c).

12 **General Allegations**

13 42. For the foregoing reasons, respondents' purported approval of the UWMP violates
14 the Water Code provisions cited hereinabove, and consequently is *ultra vires*, an abuse of
15 discretion, not in accordance with applicable law, and not supported by substantial evidence, and
16 thus is void and must be set aside.

17 43. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
18 law in that, unless this Court issues its writ of mandate or injunctive relief vacating respondents'
19 approval of the UWMP and requiring respondents to comply with the foregoing provisions of
20 the Water Code, and to conform such UWMP therewith, respondents' approval thereof would be
21 contrary to such laws. No monetary damages or other legal remedy could adequately
22 compensate petitioners for the harm to the environment and to their quality of life and to that of
23 the public occasioned by respondents' unlawful conduct.

24 44. An actual controversy exists between petitioners and respondents in that petitioners
25 contend that respondents have acted in violation of the Water Code as alleged hereinabove, but
26 respondents dispute such contention. A judicial resolution of this controversy is therefore
27 necessary and appropriate.

1 45. Respondents are threatening to proceed with implementation of the UWMP without
2 awaiting this Court's review of their compliance with the foregoing laws. Implementation of the
3 UWMP will irreparably harm petitioners and the public in the respects alleged above.
4 Accordingly, preliminary and permanent injunctions should issue, restraining respondents from
5 implementing the UWMP without compliance with the Water Code.

6 **SECOND CAUSE OF ACTION**

7 (Writ of Mandate and Declaratory and Injunctive Relief
8 to Set Aside Respondents' Approval of the UWMP
9 as Contrary to the Public Trust Doctrine, and Injunctive Relief
10 to Restrain Implementation of the UWMP)

(Alleged by All Petitioners Against All Respondents/Defendants/Real Parties in Interest)

11 46. The paragraphs set forth above are realleged and incorporated herein by reference.
12 The Public Trust Doctrine and related provisions of the California Constitution, including
13 Article I, section 25 and Article X, sections 2 and 4, California Water Code sections 1243,
14 1243.5, 1257, 1257.5, and 1258, and Fish and Game Code sections 1600 *et seq.*, 2080 *et seq.*
15 and 5937, impose on respondents duties (1) not to harm or impair petitioners' exercise of their
16 constitutional and statutory rights to use and enjoy the Santa Clara River, a navigable waterway
17 utilized for kayaking and other recreational boating and to enjoy its associated fish, wildlife,
18 scenic and recreational resources, and (2) not to overcommit the surface and groundwater
19 resources of the Santa Clara River watershed in an unreasonable, harmful manner.

20 47. Contrary to the foregoing duty, respondents approved the UWMP without adequate
21 environmental and hydrologic review and despite the violations of the UWMPA alleged
22 hereinabove. Respondents' approval of the UWMP violates the Public Trust Doctrine and its
23 constitutional and statutory underpinnings, because (1) respondents failed to conduct adequate
24 environmental and hydrologic reviews to assure protection of public trust resources as required
25 under Public Trust Doctrine before adopting the UWMP, (2) the UWMP violates the UWMPA
26 in the respects alleged hereinabove, and (3) the UWMP poses an unreasonable risk that the
27 surface and groundwater resources of the Santa Clara River and its watershed, and associated
28 fish, wildlife, and recreational resources dependent thereon, will be unreasonably impaired and

1 harmed in the respects alleged hereinabove. In particular, because of its deficiencies alleged
2 hereinabove, the UWMP overstates available surface and groundwater resources of the Santa
3 Clara River and its watershed, and understates the adverse effects of foreseeable urban growth
4 on these water resources. The UWMP thus encourages and allows respondents and other local
5 governments that will rely on the UWMP to approve unsustainable urban growth that will
6 exhaust and outstrip these surface and groundwater resources, causing lower flows in the Santa
7 Clara River and its tributaries, harming their hydrologic and ecological health, natural scenery,
8 vegetation, fish and wildlife, and related public trust resources and uses.

9 48. Petitioners have no plain, speedy, and adequate remedy in the ordinary course of
10 law in that, unless this Court issues its writ of mandate or injunctive relief vacating respondents'
11 approval of the UWMP and requiring respondents to comply with the foregoing provisions of
12 the Water Code, to conform such UWMP therewith, and to first conduct an adequate and
13 reasonable environmental and hydrologic review to assure protection of public trust resources as
14 required under the Public Trust Doctrine, respondents' approval thereof would be contrary to
15 these laws. No monetary damages or other legal remedy could adequately compensate
16 petitioners for the resulting harm to the environment and to their quality of life and to that of the
17 public occasioned by respondents' unlawful conduct.

18 49. An actual controversy exists between petitioners and respondents in that petitioners
19 contend that respondents have acted in violation of the Public Trust Doctrine as alleged
20 hereinabove, but respondents dispute this contention. A judicial resolution of this controversy is
21 therefore necessary and appropriate.

22 50. Respondents are threatening to proceed with implementation of the UWMP without
23 awaiting this Court's review of their compliance with the foregoing laws. Implementation of the
24 UWMP will irreparably harm petitioners and the public in the respects alleged above.
25 Accordingly, a temporary restraining order and preliminary and permanent injunctions should
26 issue, restraining respondents from implementing the UWMP without compliance with the
27 Public Trust Doctrine and related laws.

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PRAYER FOR RELIEF

WHEREFORE, petitioners pray for relief as follows:

1. On the First Cause of Action, all petitioners seek this Court’s peremptory writ of mandate, declaratory judgment, and preliminary and permanent injunctions setting aside and enjoining respondents’ approval of the UWMP on the grounds that it violates the UWMPA;
2. On the Second Cause of Action, petitioners seek this Court’s peremptory writ of mandate, declaratory judgment, and preliminary and permanent injunctions setting aside and restraining respondents’ approval of the UWMP on the grounds that it violates the Public Trust Doctrine and related laws;
3. For reasonable attorney’s fees;
4. For costs of suit herein; and
5. For such other and further relief as the Court deems just and proper.

Dated: February 24, 2006 Respectfully submitted,

STEPHAN C. VOLKER
Attorney for Petitioners/Plaintiffs
CALIFORNIA WATER IMPACT NETWORK and
FRIENDS OF THE SANTA CLARA RIVER

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VERIFICATION

I, Stephan C. Volker, am counsel to petitioners/plaintiffs and have personal knowledge of the following facts. The offices and governing boards of the petitioners/plaintiffs California Water Impact Network and Friends of the Santa Clara River are located outside the county in which I maintain my office, Alameda County. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. The facts alleged in the above petition are true to the best of my knowledge and belief, and on that ground petitioners/plaintiffs allege that the matters stated herein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Verification was executed in Oakland, California on February 24, 2006.

STEPHAN C. VOLKER

Groundwater Modeling & Data Analyses Lower Santa Clara River

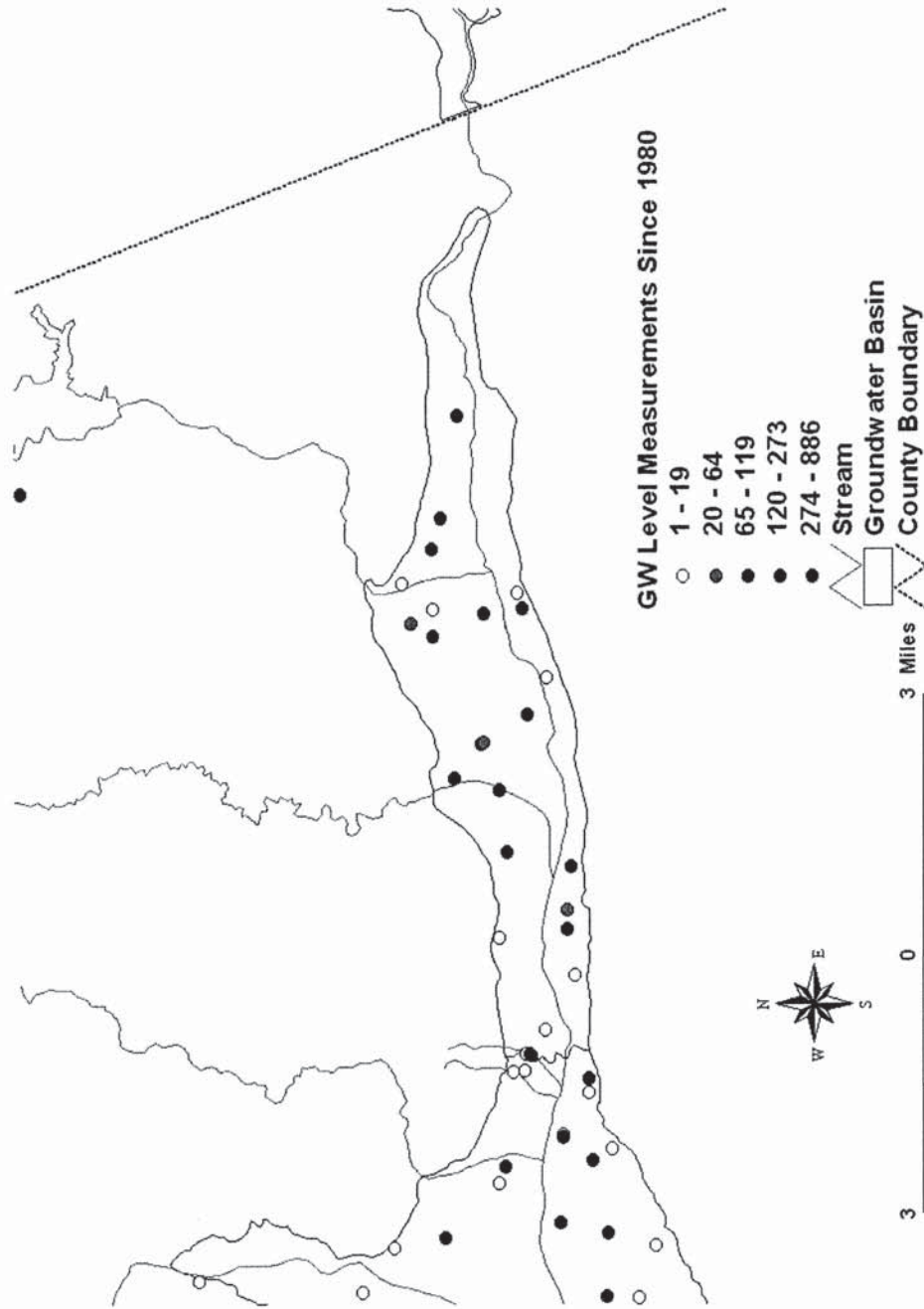
Steven Bachman, PhD

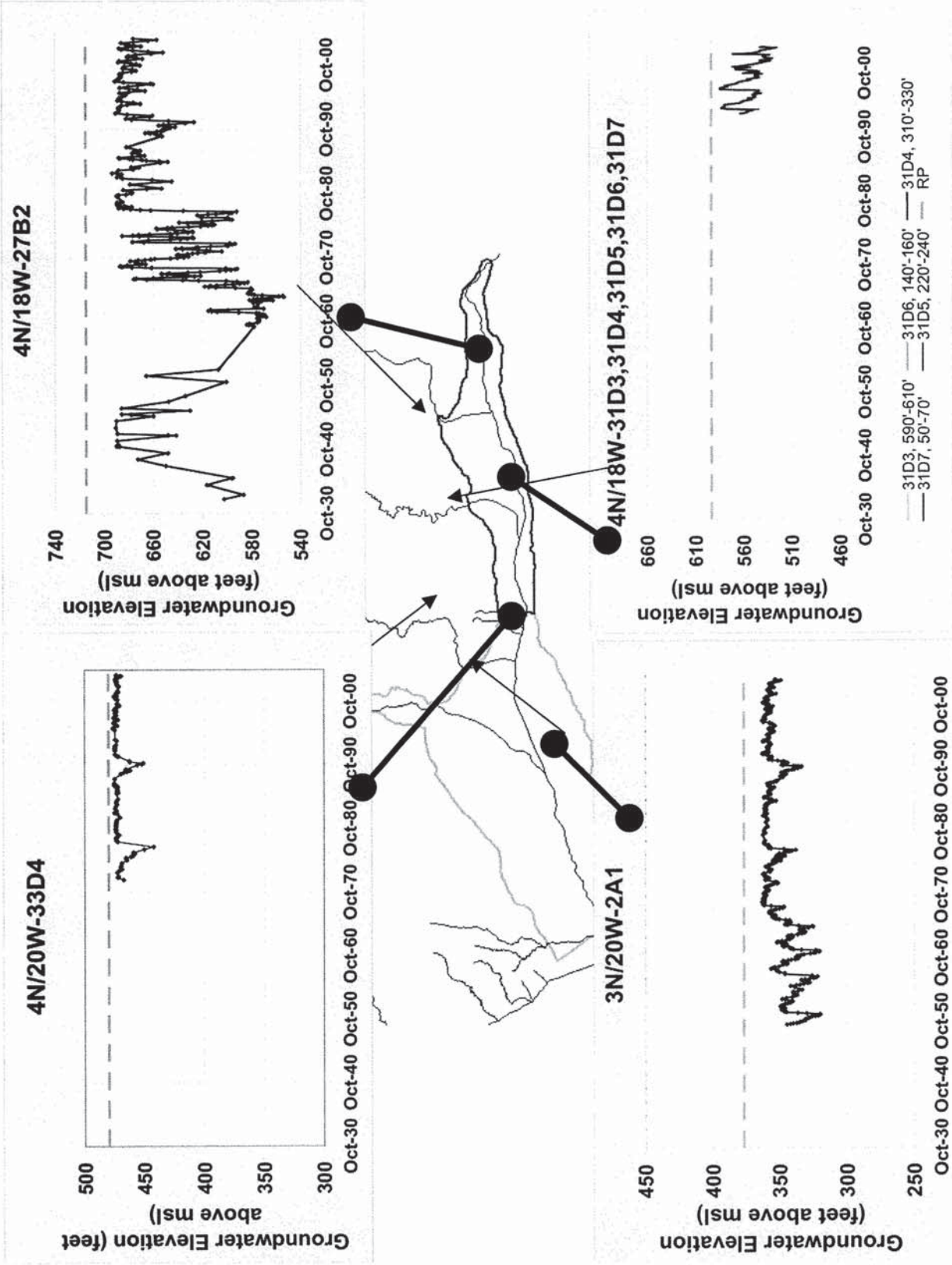
Dan Detmer, MS

United Water Conservation District

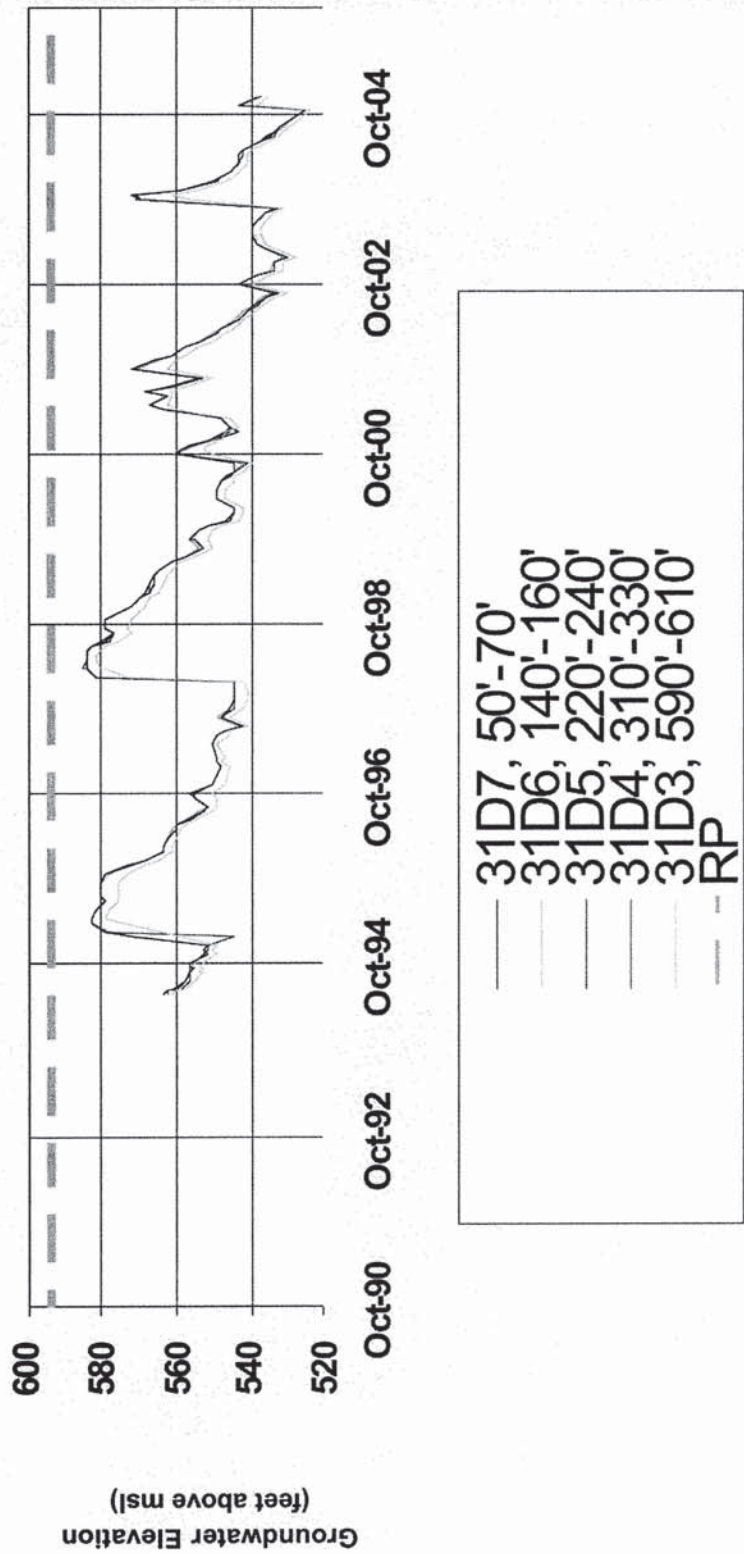


Groundwater Level Monitoring

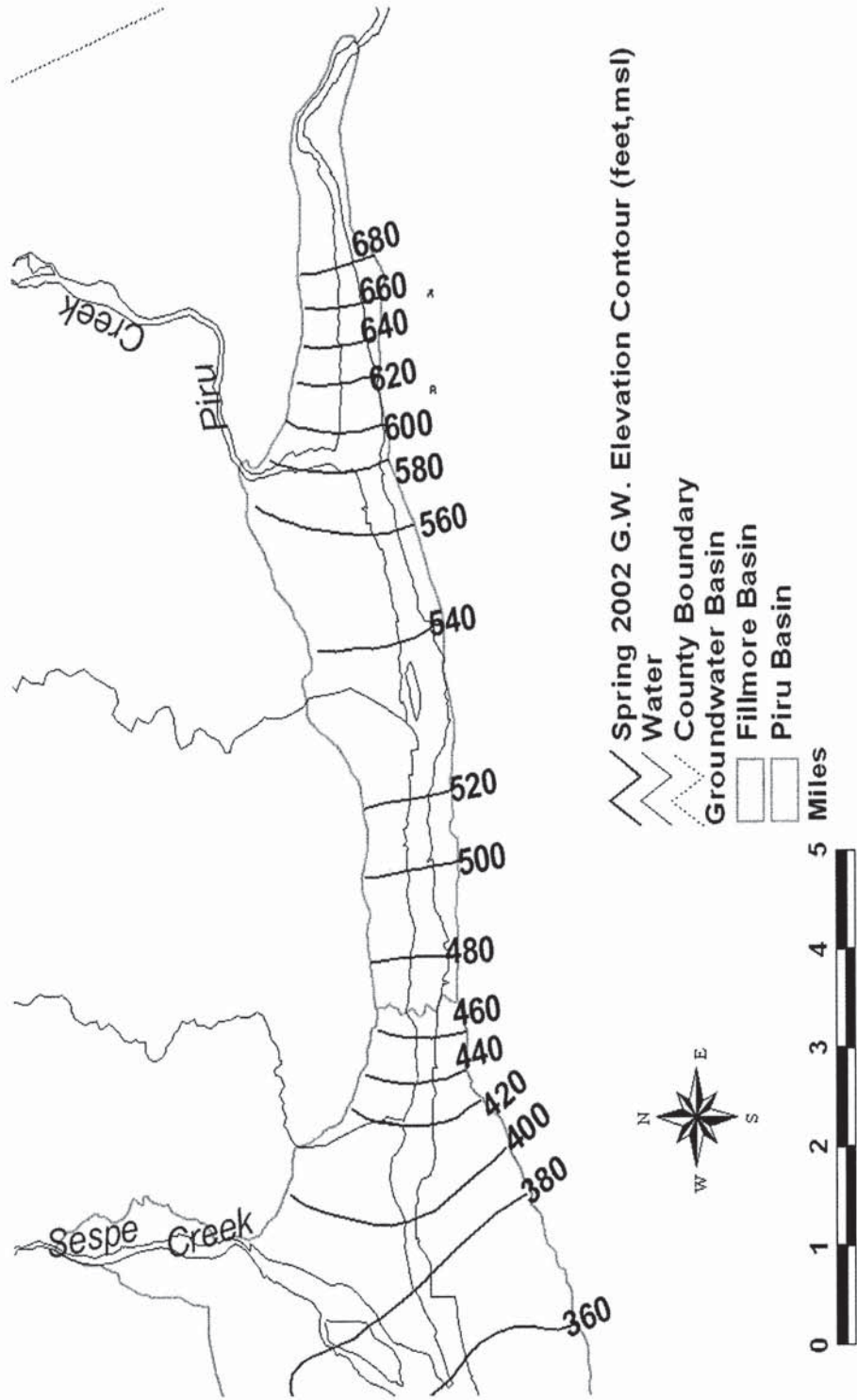




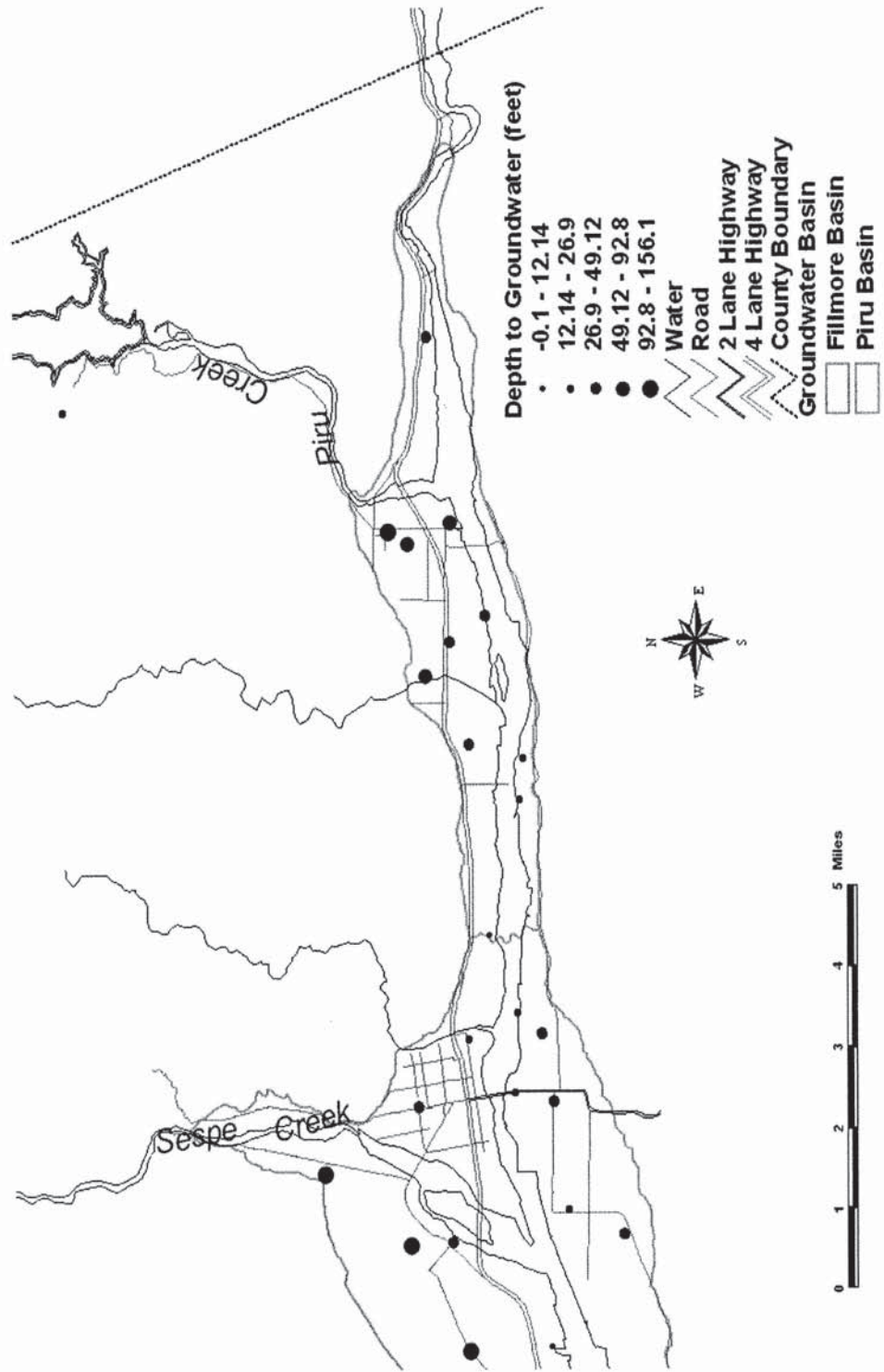
Piru Nested Monitor Well Site



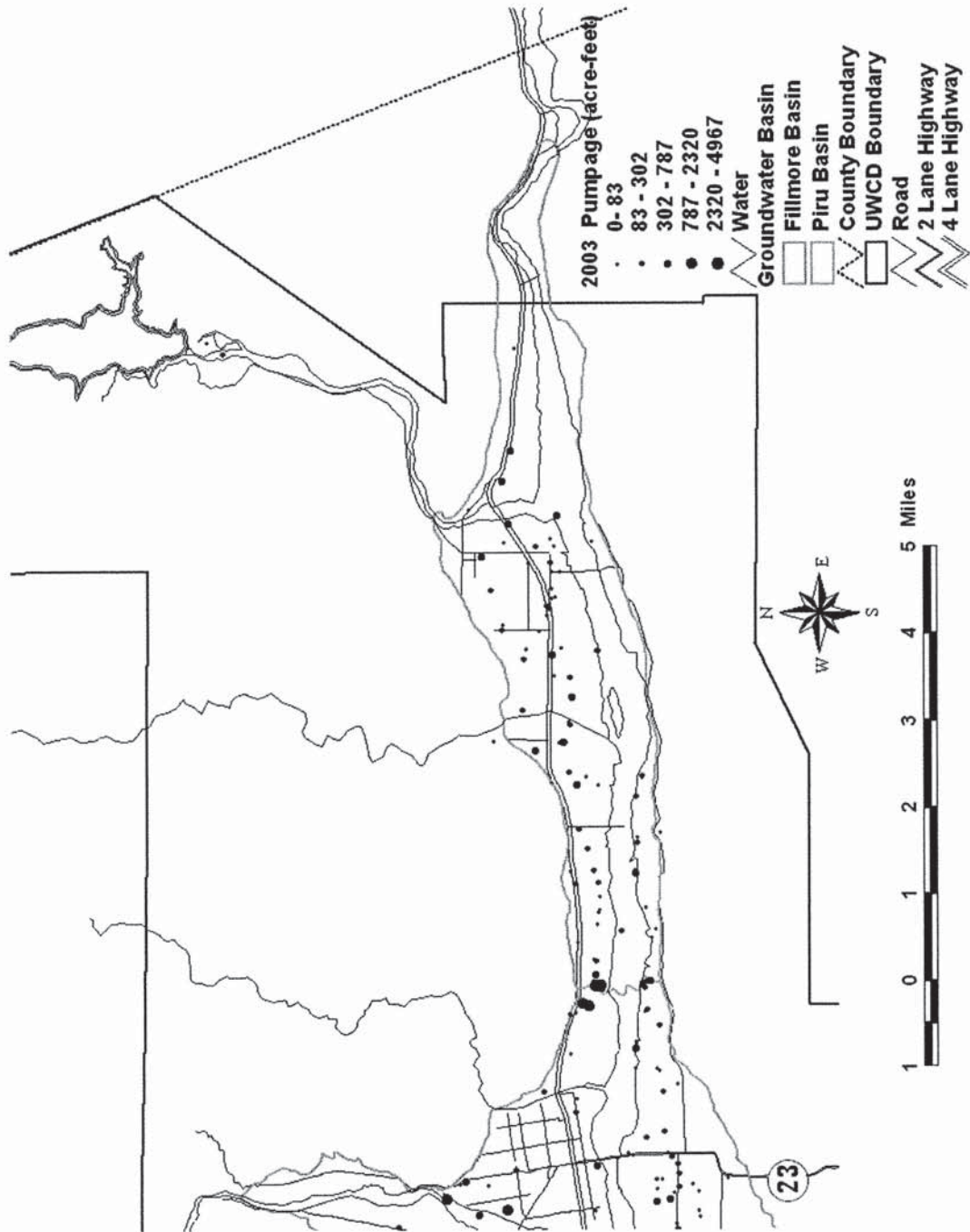
Groundwater Elevation Contours



Depth to Groundwater



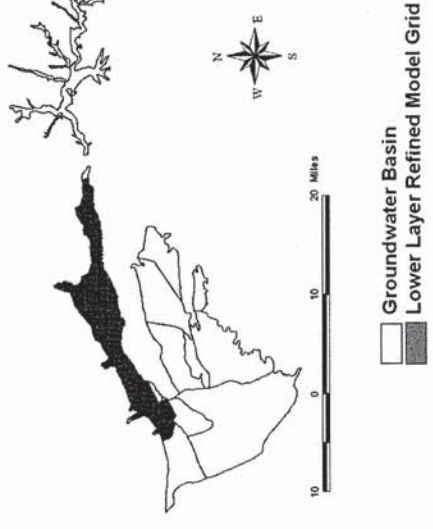
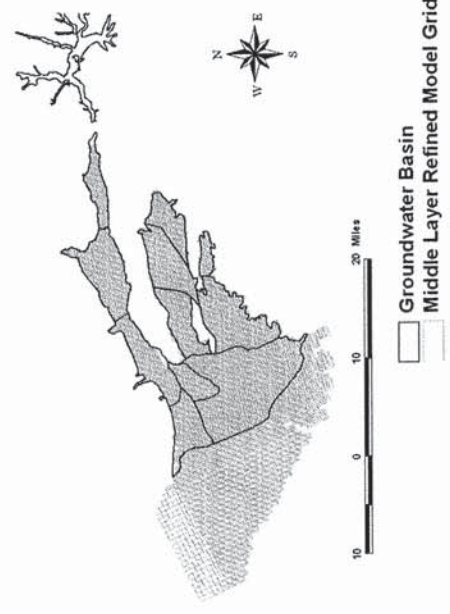
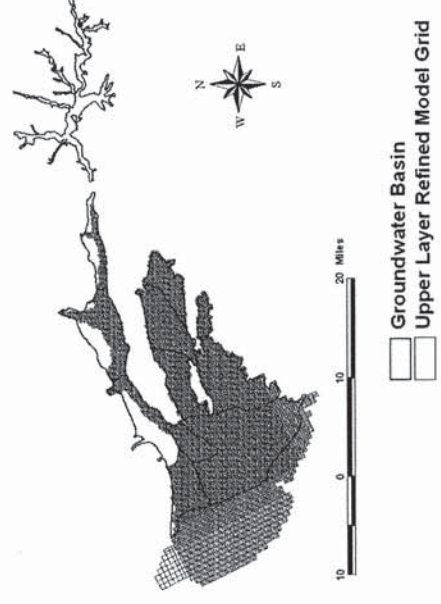
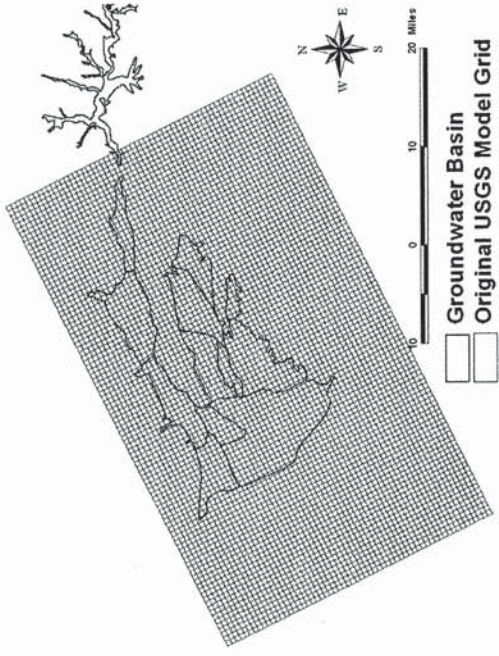
Groundwater Extractions



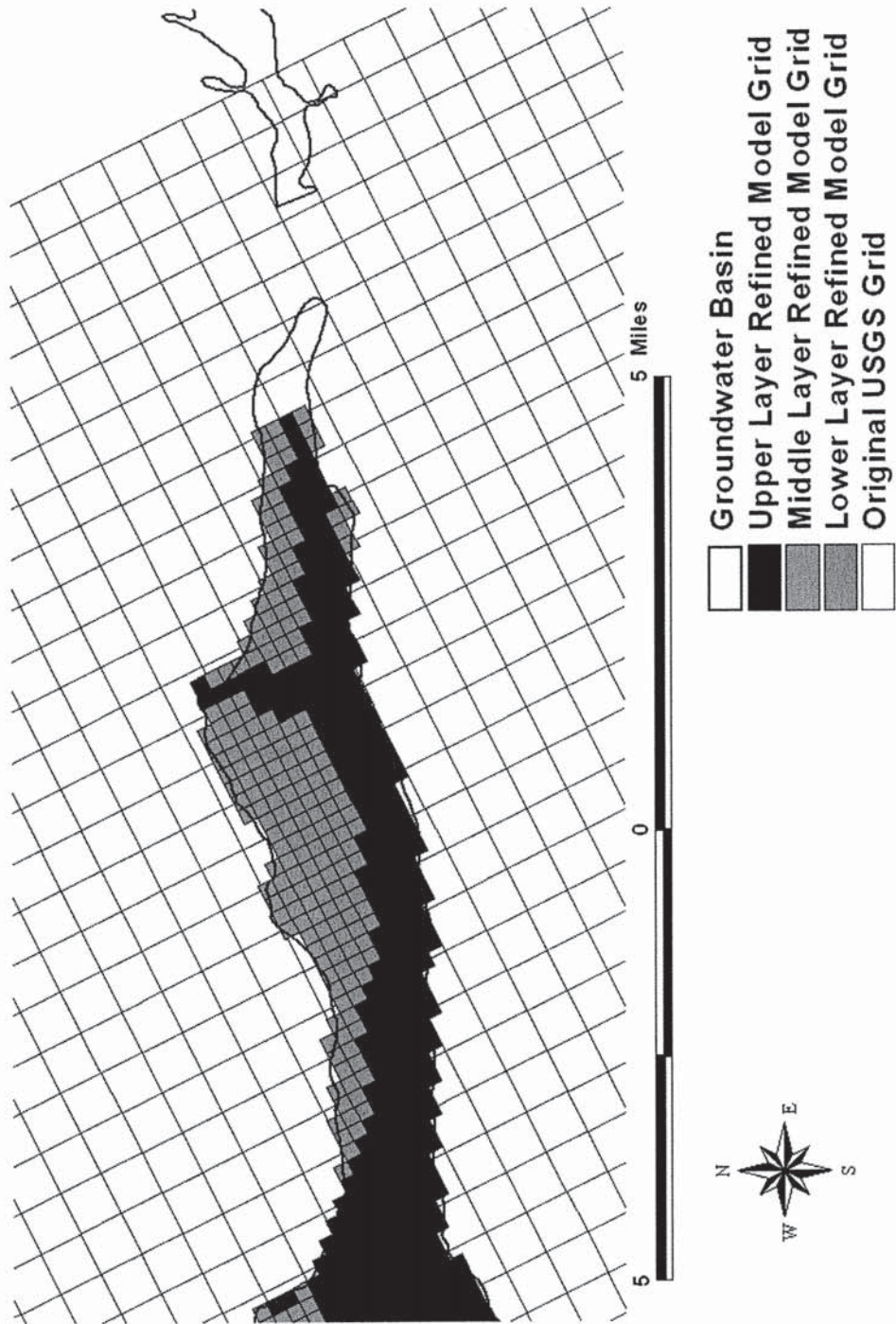
SANTA CLARA – CALLEGUAS GROUNDWATER MODEL

- Original model
 - Groundwater basins of lower Santa Clara River and Calleguas Creek
 - MODFLOW (DOS)
- Changes:
 - Grid Refinement to 880 feet x 880 feet
 - Additional layer along Santa Clara River
 - Recalibration
 - MODFLOW (Groundwater Vistas)

Groundwater Model Grid



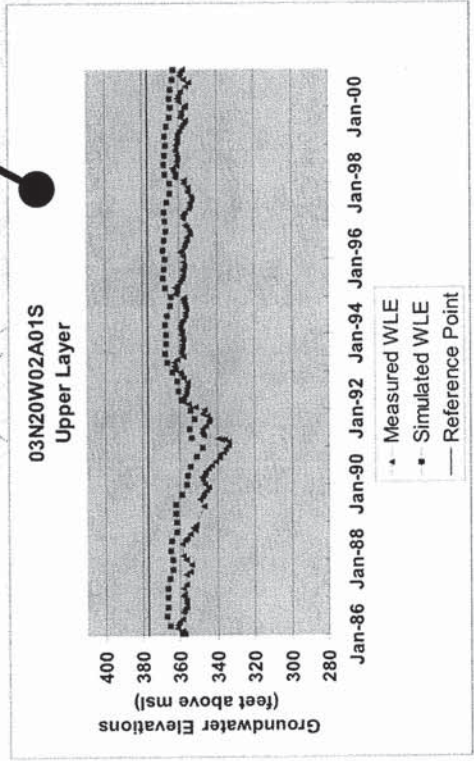
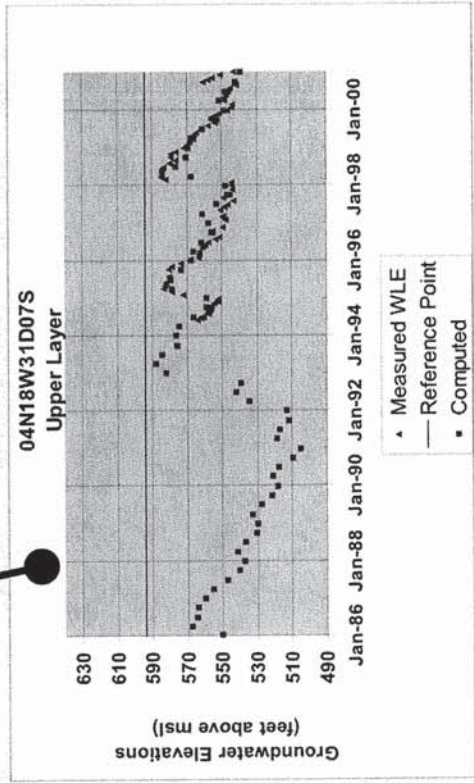
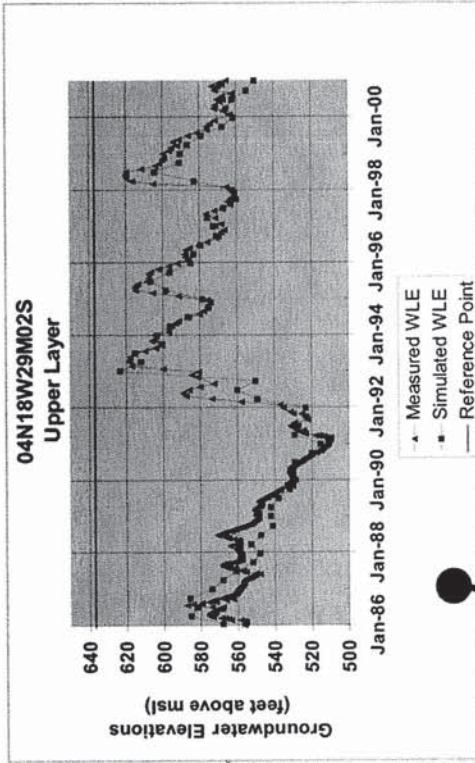
Groundwater Model Grid



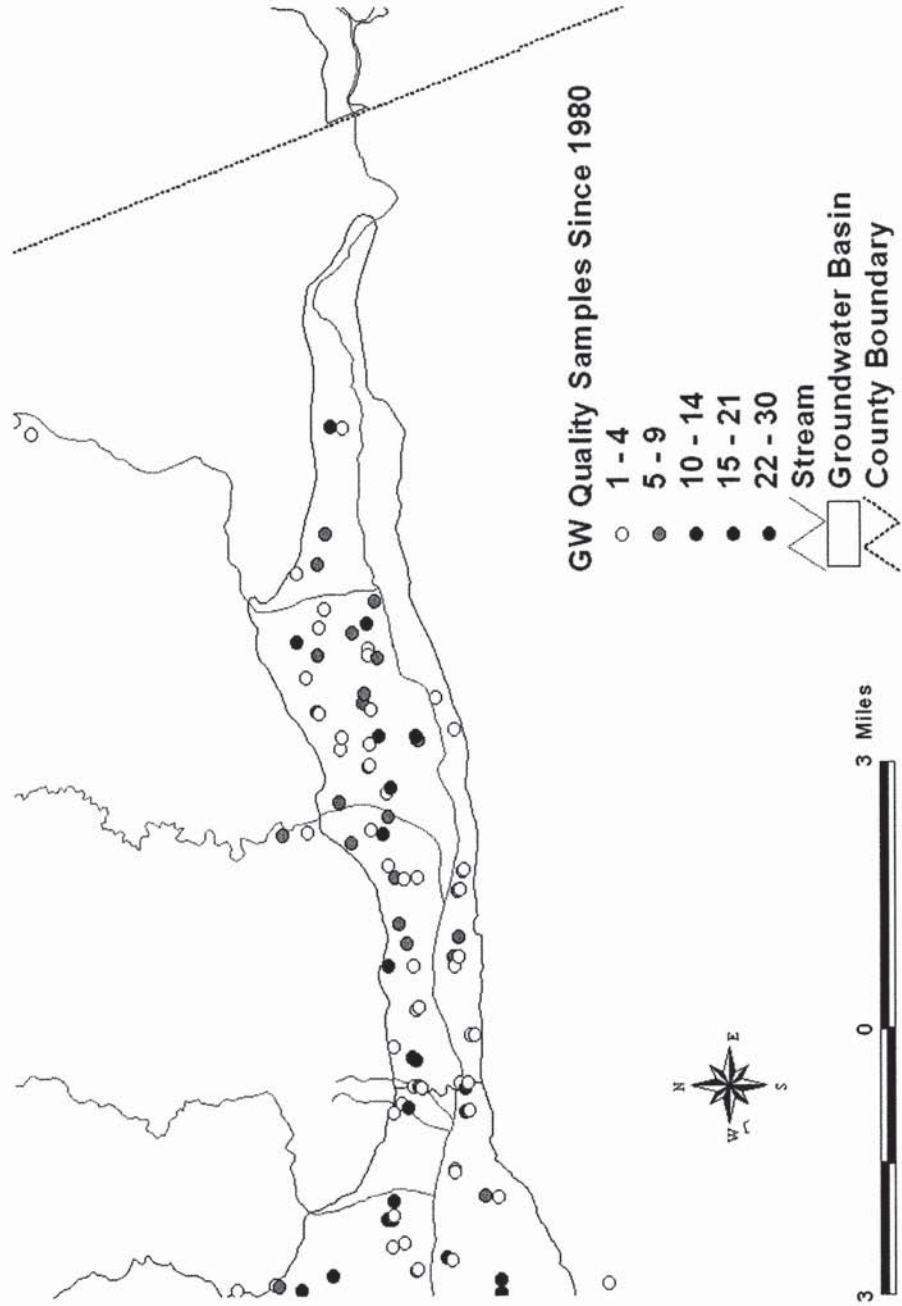
Piru Basin Model Layer Thickness

- Upper Layer: 0 feet to 250 feet
- Middle Layer: 170 feet to 450 feet
- Lower Layer: 1000 feet

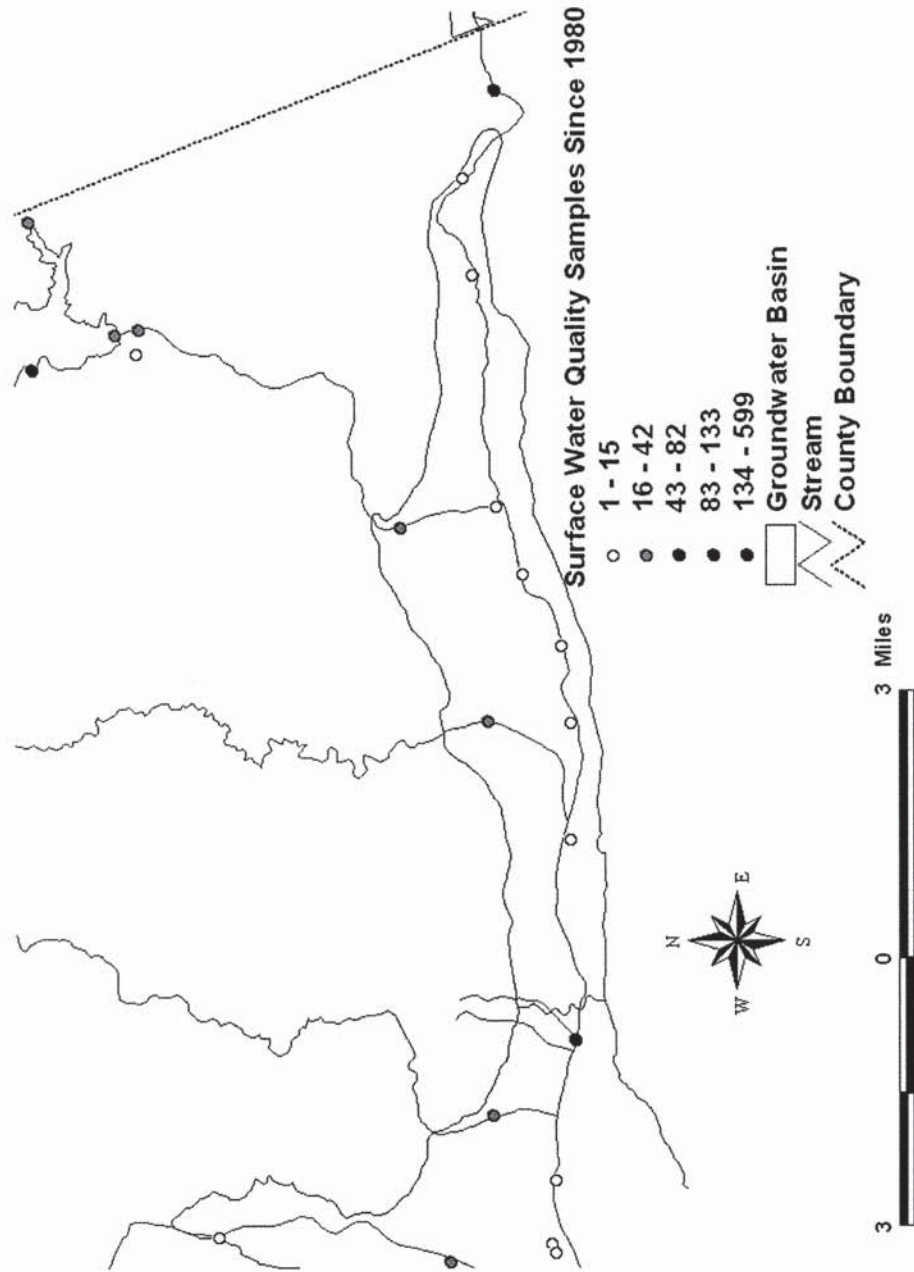
Model Calibration

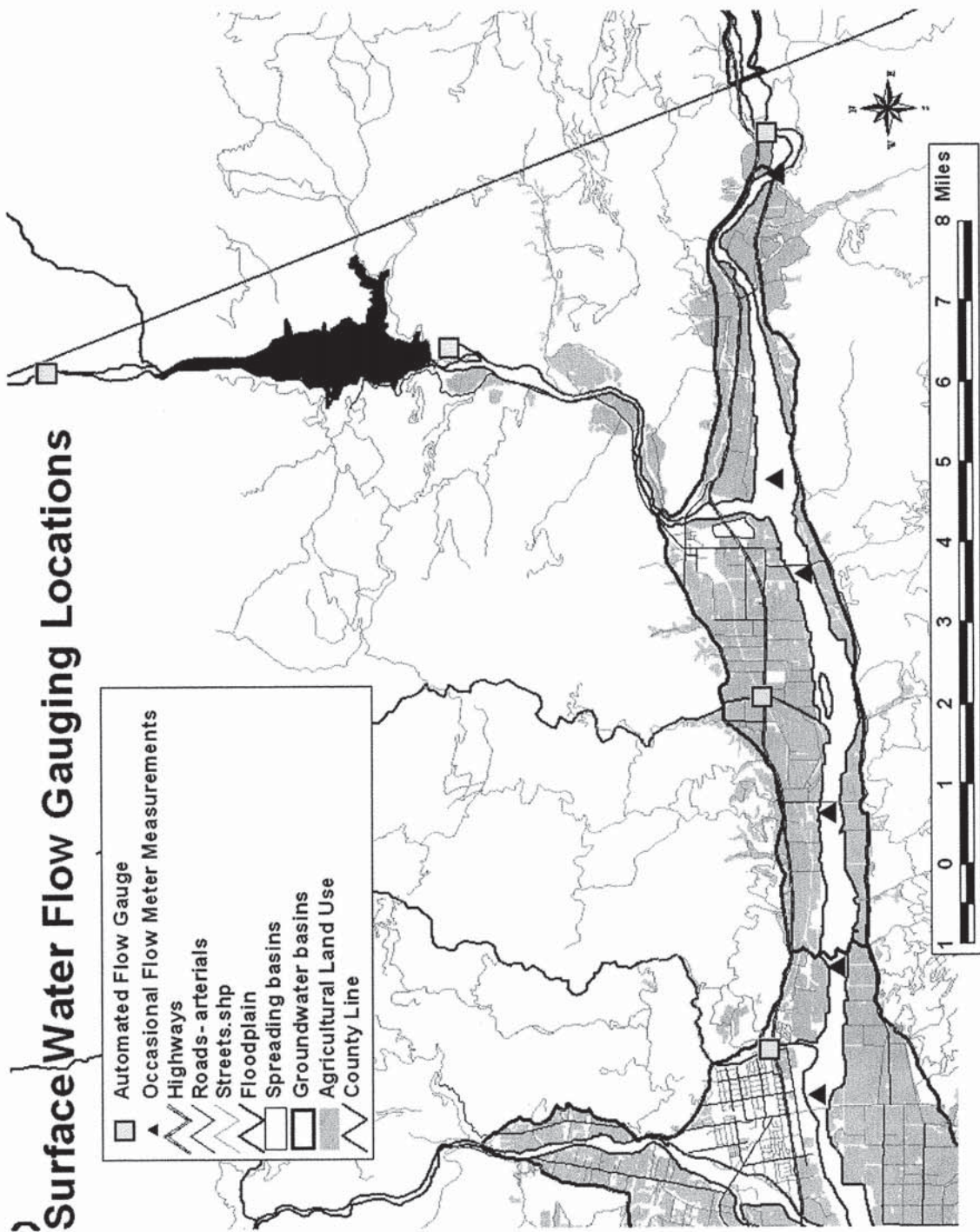


Groundwater Quality Monitoring

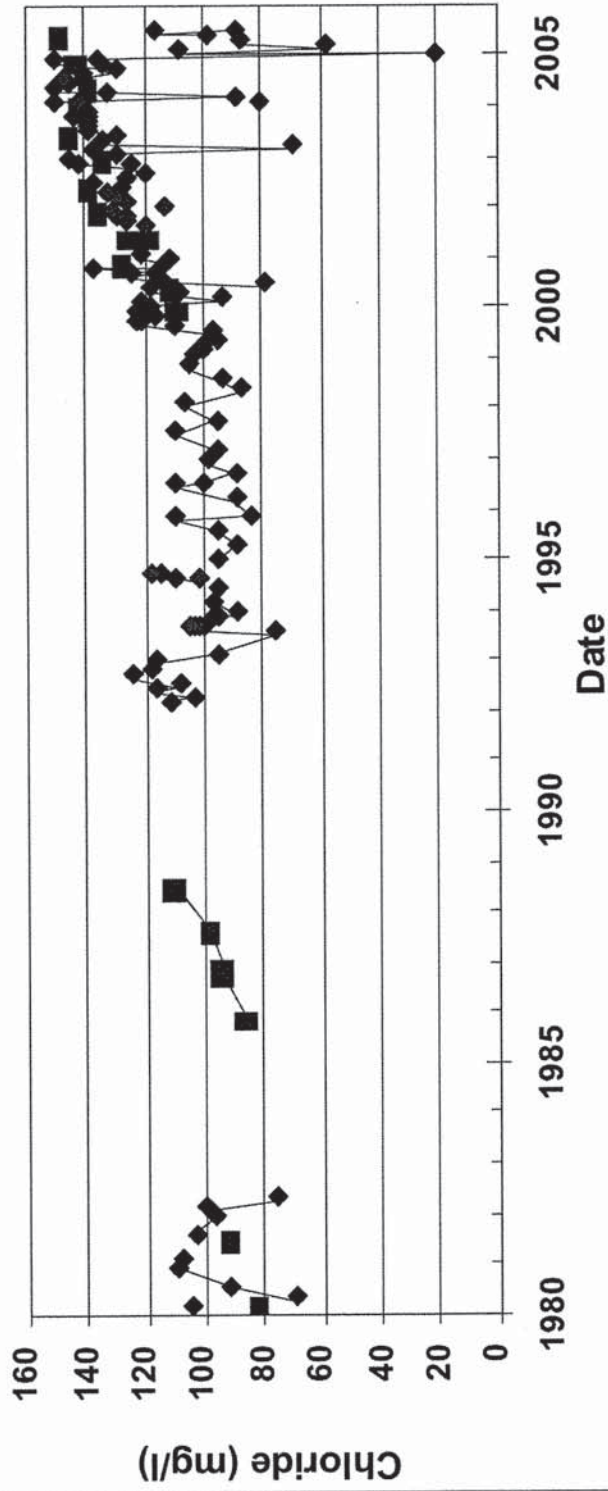


Surface Water Quality Monitoring

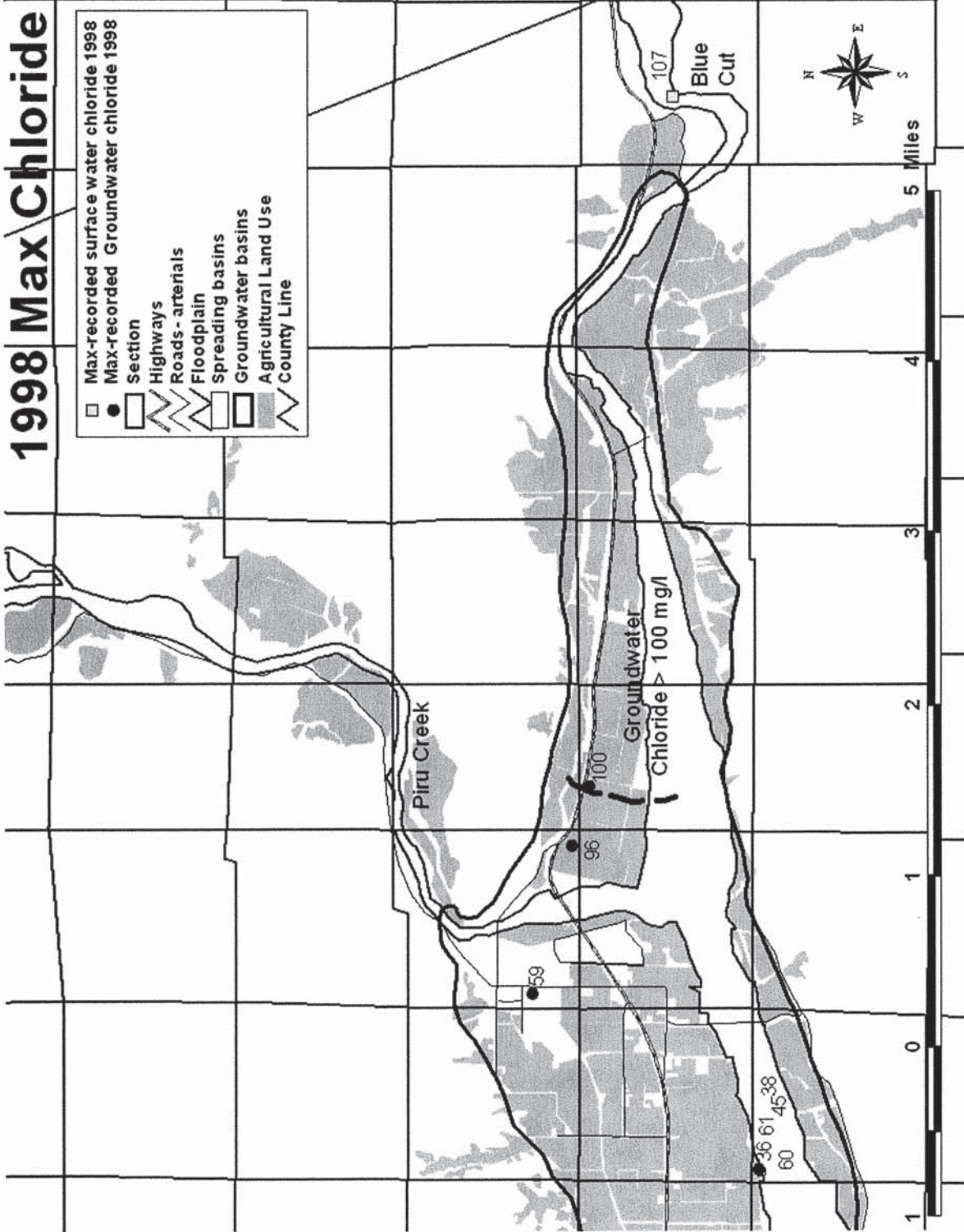


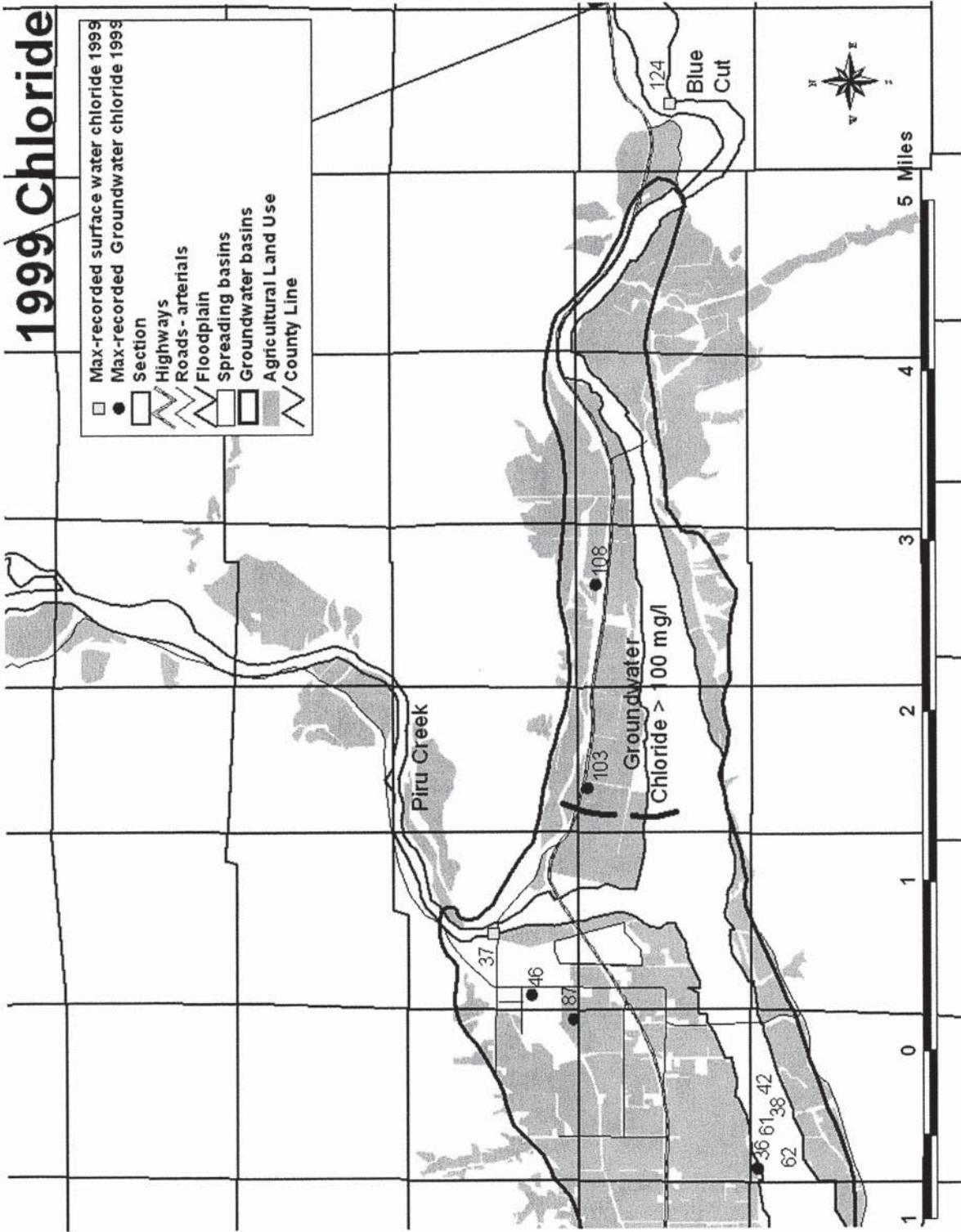


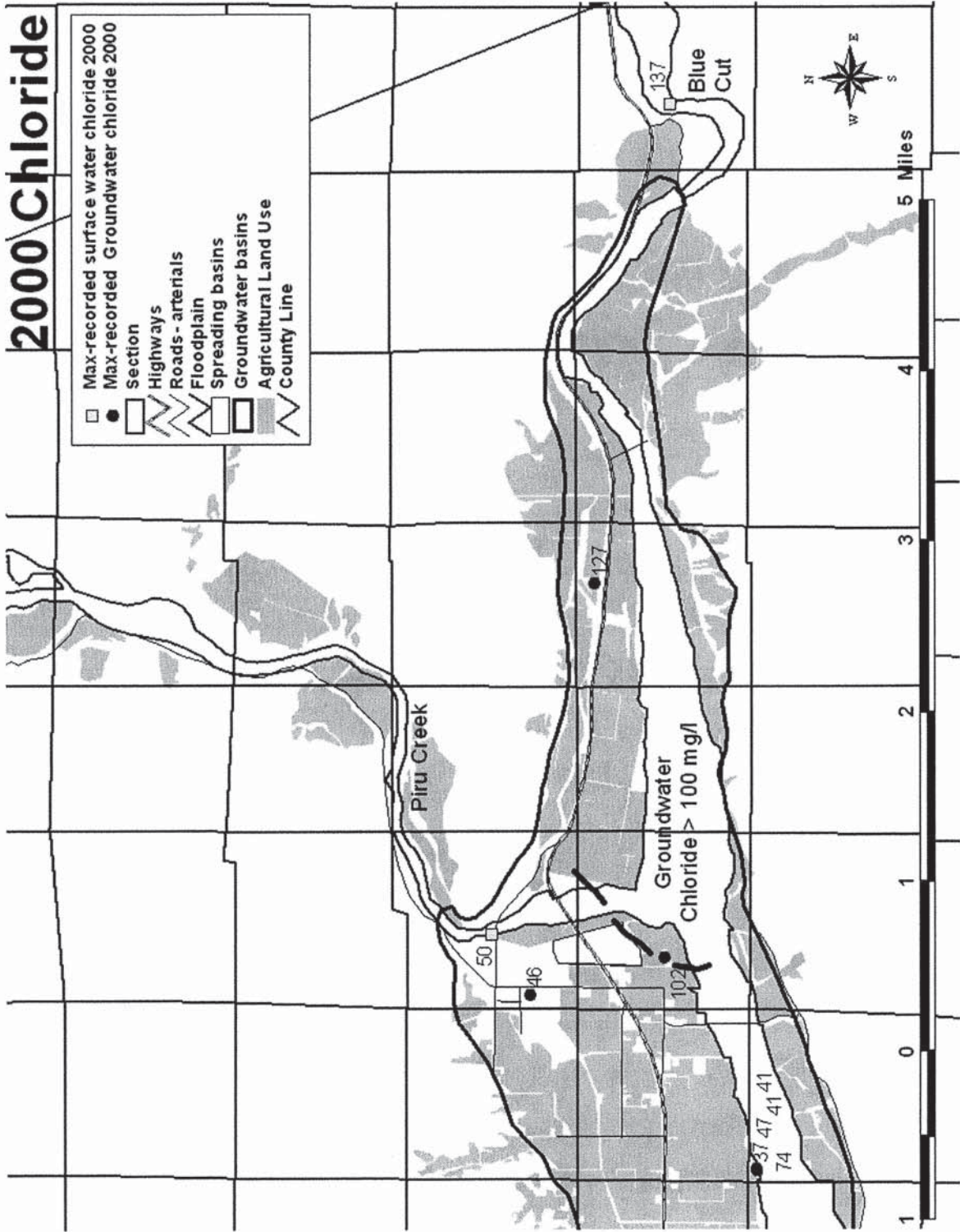
Chloride Concentrations Near Ventura County Line

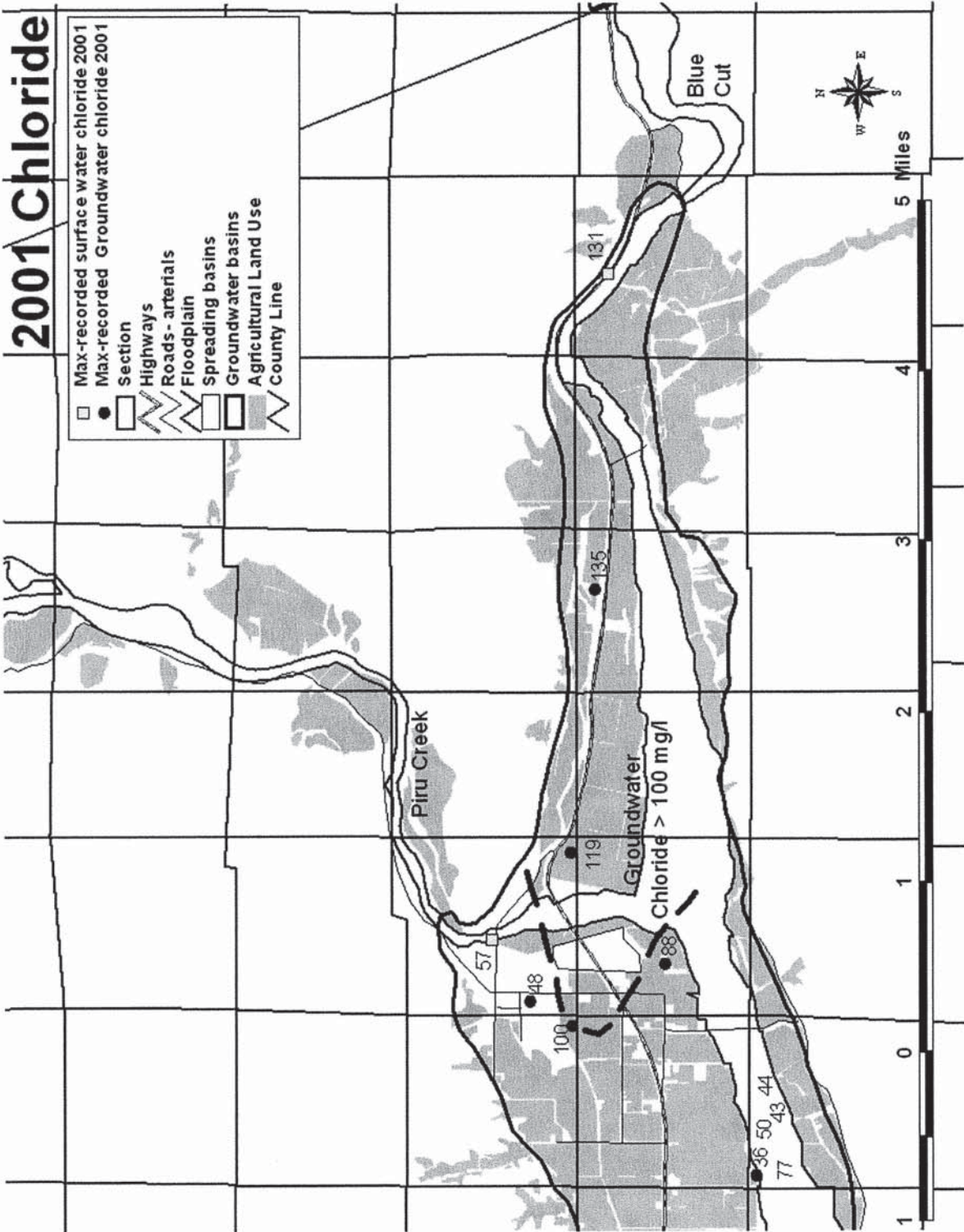


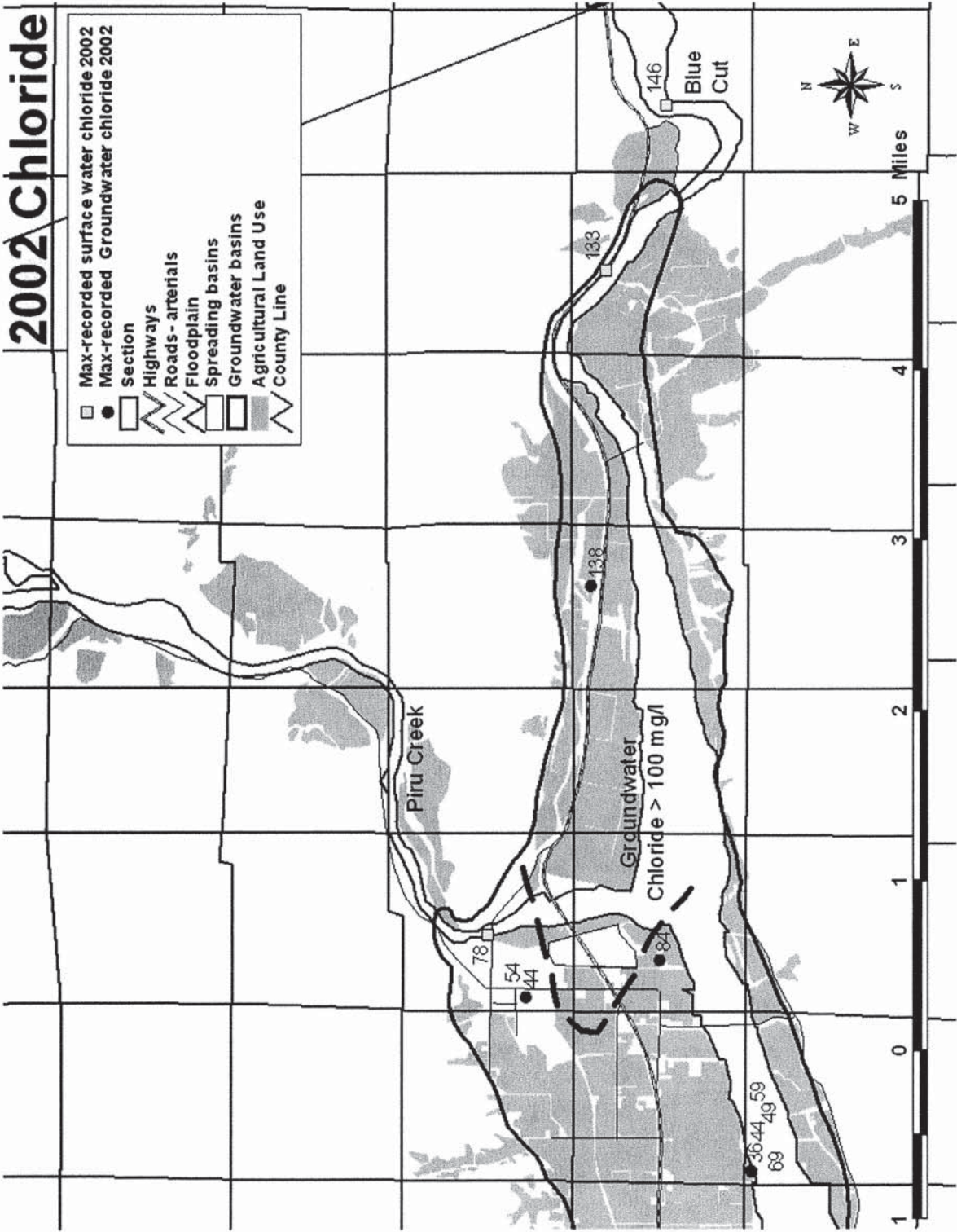
◆ Santa Clara River at Blue Cut
 ◆ Santa Clara River at Camulos Diversion
 ■ Production Well 04N/18W-27B01S

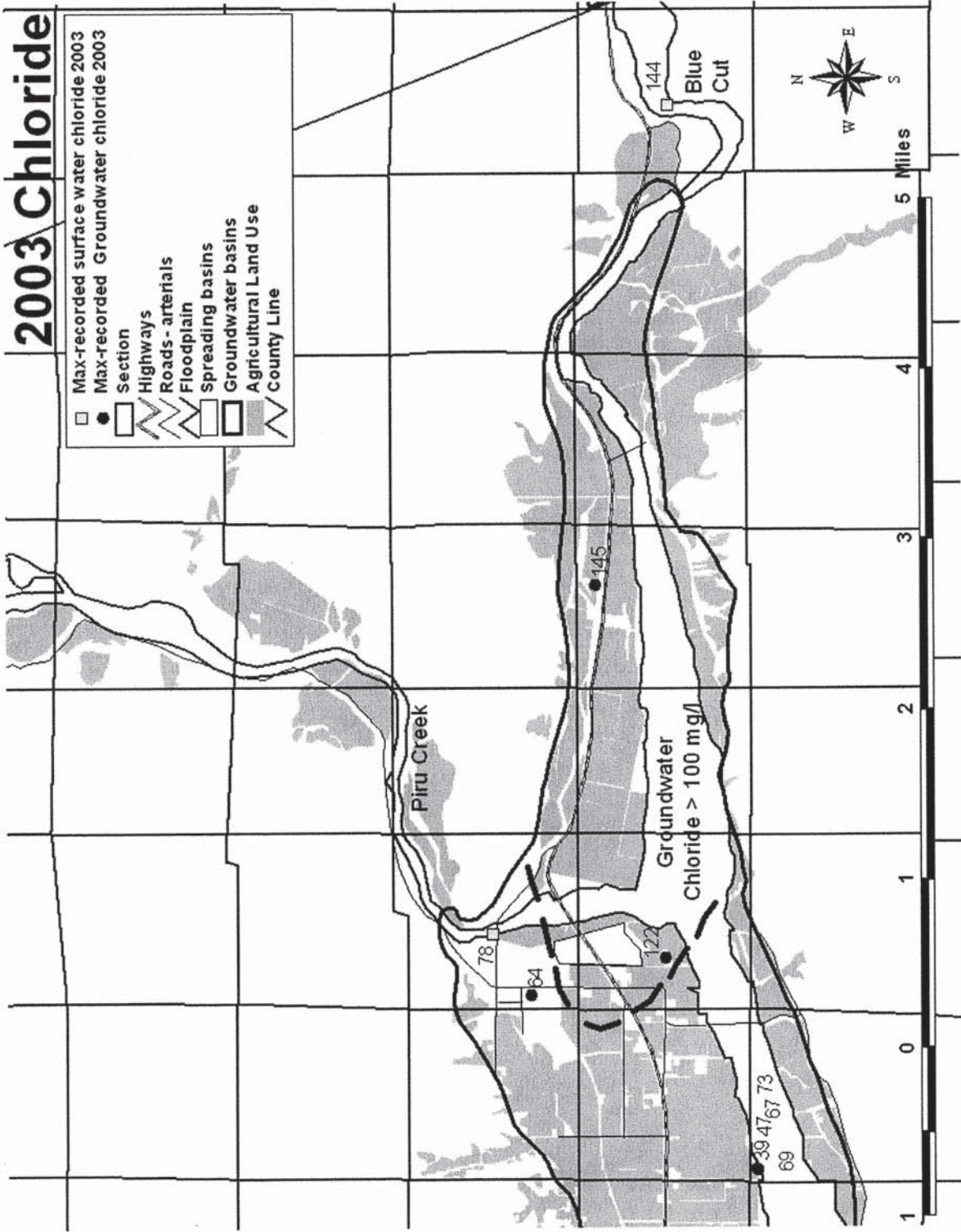




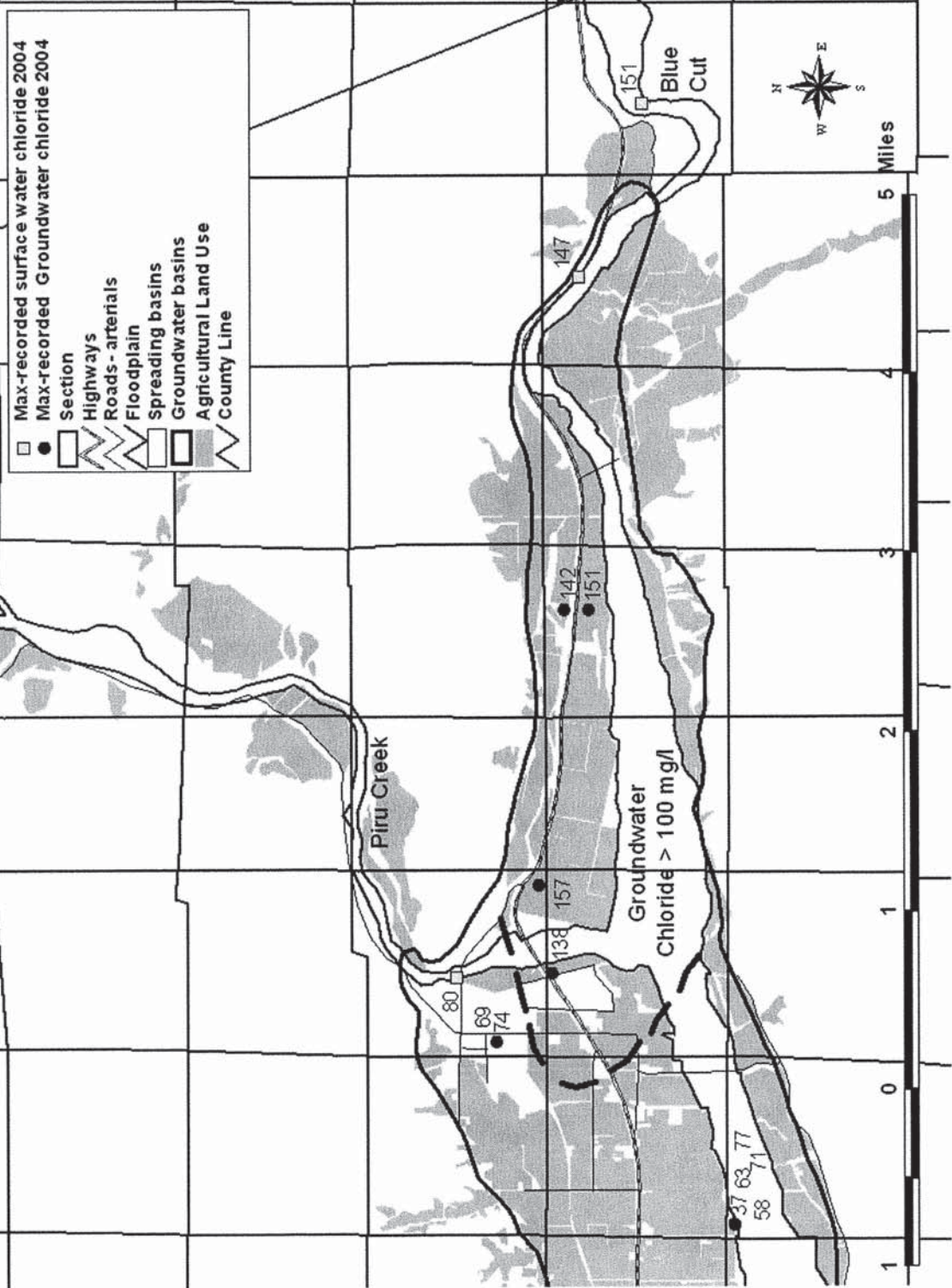


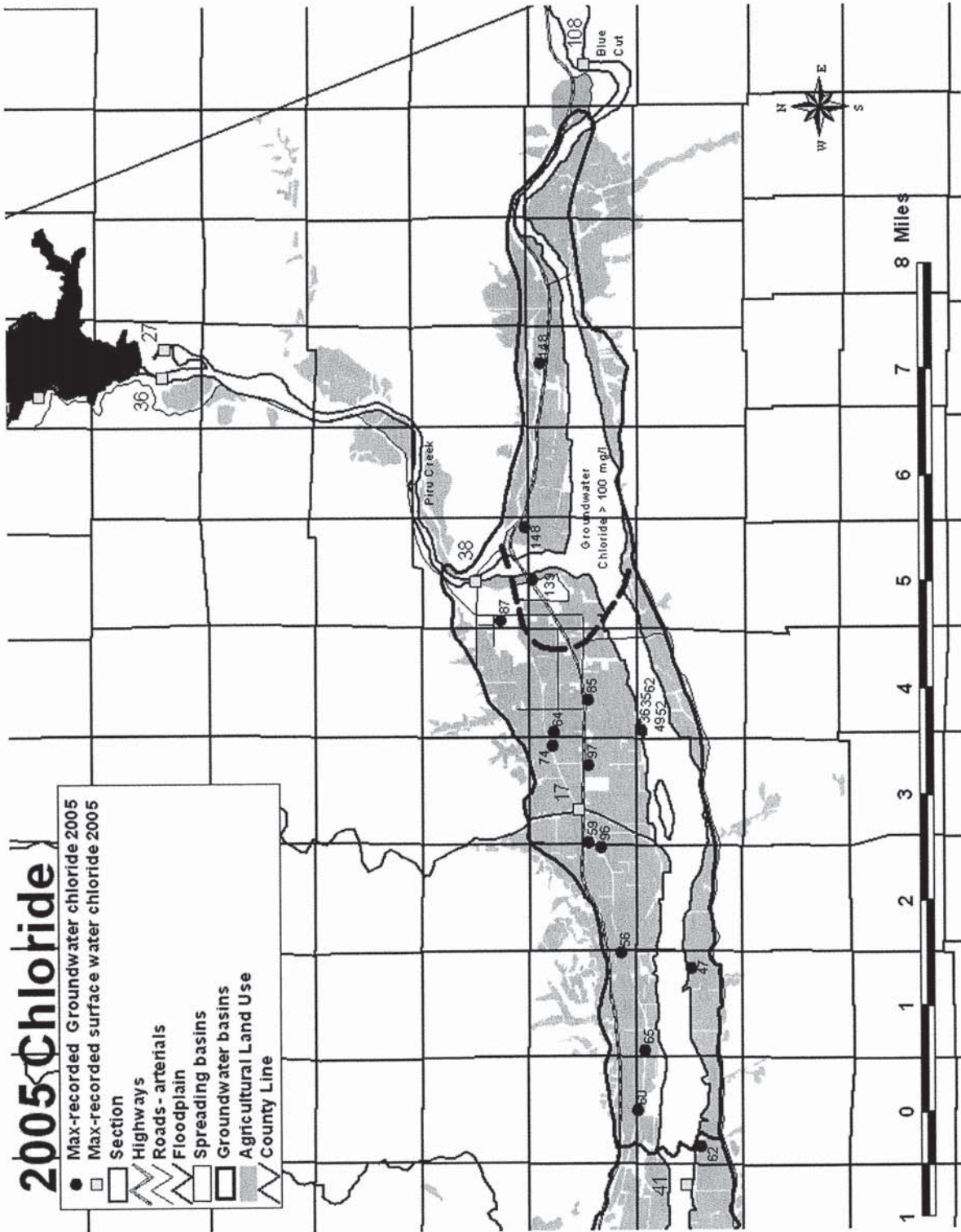






2004 Chloride







California Regional Water Quality Control Board

Los Angeles Region



Dr. Alan Lloyd
Secretary for
Environmental
Protection

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

December 20, 2005

Mr. James F. Stahl
Chief Engineer and General Manager
County Sanitation Districts
1955 Workman Mill Road
Whittier, California 90607-4998

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NO. 7003 3110 0003 3258 4325

COMPLAINT NO. R4-2005-0045 FOR MANDATORY MINIMUM PENALTIES AGAINST THE COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY, 28185 THE OLD ROAD, VALENCIA, CA (ORDER NOS. 95-081 AND R4-2003-0145, NPDES PERMIT NO. CA0054216, CI-4993)

Dear Mr. James F. Stahl:

Enclosed is Complaint No. R4-2005-0045 for Mandatory Minimum Penalties in the amount of \$246,000 against County Sanitation Districts of Los Angeles County (hereinafter Permittee) for violation of waste discharge requirements contained in Regional Board Order Nos. 95-081 and R4-2003-0145. Also enclosed for your information is a copy of the Regional Board Revised Procedures for the Conduct of Hearing Panel Proceedings.

Unless waived, a hearing before the Regional Water Quality Control Board, Los Angeles Region (Regional Board) or Regional Board Hearing Panel (Hearing Panel) will be held on this Complaint pursuant to California Water Code (CWC) §§ 13228.14 and 13323. Should the Permittee choose to waive its right to a hearing, an authorized agent must sign the waiver form attached to Complaint No. R4-2005-0045 and return it to the Regional Board by January 23, 2006. If we do not receive the waiver and payment of the full mandatory minimum penalty, or partial payment and proof of payment of the balance to a Regional Board-approved Supplemental Environmental Project (SEP) by January 23, 2006, this matter will be heard before the Regional Board or Hearing Panel. An agenda containing the date, time, and location of the hearing will be mailed to you not less than ten (10) days prior to the hearing date.

The Regional Board or Hearing Panel will hear the staff presentation, any evidence and argument the Permittee wishes to present, and any comments offered by interested parties. To ensure that the Regional Board or Hearing Panel members are given the opportunity to fully study and consider the information the Permittee wishes to present at the hearing, all documentation that the Permittee desires to be considered must be submitted to this office at least five (5) working days prior to the date of the hearing. The documentation must include: (a) any written comments, (b) a list identifying each witness to be called, and (c) the estimated time required by witnesses to present testimony. Failure to comply with these requirements is grounds for the Regional Board or Hearing Panel to refuse to admit the proposed written comments or exhibits into evidence (Title 23, California Code of Regulations, § 648.4).

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. James F. Stahl
The County Sanitation Districts of Los Angeles County

- 2 -

December 20, 2005

The Regional Board may allow the Permittee to expend a portion of the mandatory minimum penalty amount on a SEP. The Regional Board approved a list of SEPs in order to facilitate the SEP selection and implementation process. The Permittee may select a pre-approved project from this list to fulfill part of the requirements of Complaint No. R4-2005-0045. The pre-approved SEP list is available on our web site at www.waterboards.ca.gov/losangeles/html/programs/enforcement.html.

Please contact Mr. Hugh Marley at (213) 620-6375 or Ms. Joyce Lee at (213) 620-6369 should you have any questions.

Sincerely,

Jonathan Bishop
Executive Officer

Enclosures

cc: Mr. Michael Lauffer, Office of Chief Counsel, State Water Resources Control Board
Mr. Robert Sams, Office of Chief Counsel, State Water Resources Control Board
Mr. James Maughan, Division of Water Quality, State Water Resources Control Board
Mr. Bill Paznokas, Department of Fish and Game
Ms. Cindy Forbes, Southern California Field Operations Branch, Cal.-DHS/DDWEM
Mr. Kurt Souza, Drinking Water Field Operations Branch, Region V, Cal.-DHS
Ms. Kathryn Barger-Leibrich, Chief Deputy, Fifth District, County of Los Angeles

California Environmental Protection Agency

 Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:)	Complaint No. R4-2005-0045
)	Mandatory Minimum Penalties for
)	Violation of California Water Code § 13376
County Sanitation Districts of Los Angeles County)	And
Valencia Water Reclamation Plant)	Order Nos. 95-081 and R4-2003-0146
Valencia, California)	(NPDES No. CA0054216)

This Complaint to assess the mandatory minimum penalties pursuant to California Water Code (CWC) § 13385, subdivisions (h) & (i) is issued to County Sanitation Districts of Los Angeles County (hereinafter Permittee) based on findings of violations of waste discharge requirements prescribed in Order Nos. 95-081 and R4-2003-0146 (NPDES No. CA0054216, CI No. 4993).

The Executive Officer (Executive Officer) of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:

1. The Permittee operates the Valencia Water Reclamation Plant (hereinafter facility) located at 28185 The Old Road, Valencia. The Permittee can discharge up to 17 million gallons per day (MGD) of tertiary-treated municipal and industrial wastewater at the facility (Latitude 34°25'47", Longitude 118°35'27"). The wastewater is susceptible of containing chloride, cyanide, nitrate plus nitrite (as nitrogen) and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The wastewater flows to the Santa Clara River, a navigable water of the United States.
2. On June 12, 1995 the Regional Board adopted Order No. 95-081, which prescribed waste discharge requirements to the Permittee for the discharge of treated wastes from the facility.
3. Order No. 95-081 (Part I.A., page 6-8) included the following effluent limitations for chloride, cyanide, and nitrogen:

December 20, 2005

Constituent	Unit of Measure	Discharge Limitations (daily maximum)	Discharge Limitations (30-day average)
Chloride	Mg/L	100	--
Chloride	lbs/day	10,508* / 14,178 **	--
Cyanide	µg/L	--	5.2
Cyanide	lbs/day	--	0.55* / 0.74**
Nitrate + Nitrite (as N)	Mg/L	10	--

mg/L = milligrams/liter; µg/L = micrograms/liter

* Mass Emission Rate (MER) of 12.6 MGD (lbs/day = Concentration x MER x 8.34)

** MER beginning May 2003 due to increase in design capacity from 12.6 MGD to 17 MGD

4. On December 6, 2003, the Regional Board adopted Order No. R4-2003-0145, which replaced Order No. 95-081 and prescribes waste discharge requirements to the Permittee for the discharge of treated wastes from the facility.
5. Order No. R4-2003-0145 (Part J, page 32) includes the following interim effluent limitations for cyanide.

Constituent	Unit of Measure	Discharge Limitations (daily maximum)	Discharge Limitations (monthly average)
cyanide	ug/L	-	5.2

µg/L = micrograms/liter

- Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.
6. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit quarterly NPDES self-monitoring reports to the Regional Board pursuant to the authority of CWC § 13383.
7. Seventy three (73) violations of Order No. 95-081 and eleven (11) violations of Order No. R4-2003-0145 were noted in the Permittee's self-monitoring reports during the period January 2001 through March 2005. These violations include effluent limit exceedances for chloride, cyanide and nitrogen. The violations are identified in Table 1 attached hereto and incorporated herein by reference.
8. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2) a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

Furthermore, CWC § 13385.1(a)(1) identifies a failure to file a discharge monitoring report required pursuant to CWC § 13383 for each complete period of 30 days following the deadline for submitting the report as a “serious violation.”

9. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.
10. A portion of the penalty not to exceed fifteen thousand dollars (\$15,000) plus fifty percent (50%) of the penalty amount that exceeds fifteen thousand dollars (\$15,000) may be directed to be expended on a Supplemental Environmental Project (SEP) pursuant to CWC § 13385(l).
11. The maximum amount of administrative civil liability assessable pursuant to CWC § 13385 for each day of violation is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

YOU ARE HEREBY GIVEN NOTICE THAT:

12. The Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$246,000 for the violations which occurred during January 2001 through March 2005. Refer to Table 1 for the calculation of the amount of mandatory minimum penalty.
13. A hearing shall be conducted on this Complaint by the Regional Board or Regional Board Hearing Panel (Hearing Panel) within 90 days after service of this Complaint on the Permittee pursuant to CWC §§ 13228.14 and 13323. The Permittee will be notified of the date, time and location of the hearing. The Permittee may waive the right to a hearing. Should the Permittee choose to waive the right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4th Street, Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by the close of business on January 23, 2005. If the hearing is waived, the following options are available to satisfy the civil liability:
 - a. A check in the amount of \$246,000 (payable to the State Water Resources Control Board Cleanup and Abatement Account) shall accompany the signed waiver; or
 - b. The Permittee may pay up to \$130,500 of the civil liability by contributing to a SEP on the Regional Board approved SEP List at <http://www.waterboards.ca.gov/losangeles/html/programs/enforcement.html>. To the greatest degree practicable, there must be a nexus demonstrated with the violations cited in this Complaint and the chosen SEP.

In the event that the Permittee elects to contribute to a SEP, a check in the amount of \$115,500 (payable to the State Water Resources Control Board Cleanup and Abatement Account) shall accompany the signed waiver along with a written statement indicating the SEP chosen and proof of payment of the penalty balance to the SEP shall be submitted to the Regional Board by the close of business on January 23, 2006.

14. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements.
15. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
16. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

December 20, 2005

Jonathan Bishop
Executive Officer

