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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

ANTELOPE VALLEY GROUNDWATER CASES INCLUDED ACTIONS: Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Los Angeles, Case No. BC 325201; Los Angeles County Waterworks District No. 40 v. Diamond Farming Co., Superior Court of California, County of Kern, Case No. S-1500-CV-254348; Wm. Bolthouse Farms, Inc. v. City of Lancaster, Diamond Farming Co. v. Lancaster, Diamond Farming Co. v. Palmdale Water Dist., Superior Court of California, County of Riverside, Case No. RIC 353840, RIC 344436, RIC 344668 Rebecca Lee Willis v. Los Angeles County Waterworks District No. 40 Superior Court of California, County of Los Angeles, Case No. BC 364553 Wood v. A.V. Materials, Inc., et al., Superior Court of California, County of Los Angeles, Case No. BC 509546 Little Rock Sand and Gravel, Inc. v. Granite Construction Co., Superior Court of California, County of Los Angeles, North Judicial District, Case No. MC026932	**Judicial Council Coordination No. 4408** Santa Clara Case No. 1-05-CV-049053 Assigned to Honorable Jack Komar **REPLY IN SUPPORT OF GRANITE'S MOTION TO INTERPRET AND ENFORCE THE JUDGMENT AND TO PARTITION THE EXHIBIT 4 ("Granite Construction Company (Little Rock Sand and Gravel, Inc.)" PRODUCTION RIGHT** Date: June 27, 2018 Time: 9:00 a.m. Dept.: 222

I. INTRODUCTION AND SUMMARY OF ARGUMENT

In its motion, Granite Construction Company (**Granite**) asks the Court to interpret and enforce the Judgment with respect to the 234 AF Production Right allocated jointly to:

> "Granite Construction Company (Little Rock Sand and Gravel, Inc.)"

Specifically, Granite requests a declaration that Granite and Little Rock Sand and Gravel, Inc. (**LS&G**) each have a 50% undivided interest in the joint Production Right since (i) the Judgment does not further divide the 234 AF, (ii) LS&G disavowed the parties' agreement to divide the Production Right 100 AF to Granite and 134 AF to LS&G, and (iii) there is no agreement that the parties hold the Production Right in another fashion. Granite also requests an order partitioning the 234 AF equally. First, however, Granite asks the Court to determine whether LS&G is a "Stipulating Party" under the Stipulation for Entry of Judgment (**Stipulation**).

LS&G's primary argument in opposition is that LS&G reserved a pre-Stipulation dispute with Granite "for post-Stipulation determination or resolution." (See Opp., p. 1, ll. 19-22.) That argument is both patently false and meaningless since no dispute was reserved for post-*Judgment* litigation. The Stipulating Parties expressly rejected LS&G's request to reserve its claimed dispute with Granite post-Stipulation. Accordingly, nowhere in the Stipulation or Judgment did the parties or the Court reserve any "dispute" between Granite and LS&G for post-Judgment litigation. To the contrary, LS&G waived any right to litigate any pre-judgment dispute by signing the Stipulation and consenting to the Judgment, which expressly resolves all disputes among the Stipulating Parties (including its claimed dispute with Granite).

The lack of a "reserved" issue and waiver by LS&G has significant implications for the current proceeding. First, it means that LS&G is not a Stipulating Party since, as LS&G confirms in it opposition, its signature on the Stipulation was conditioned on the reservation of a dispute with Granite for post-stipulation litigation, a condition that the Stipulating Parties rejected and the Court did not adopt. Second, if LS&G is deemed a Stipulating Party notwithstanding its conditional signature, then (i) LS&G waived any right to litigate any pre-judgment dispute with Granite, (ii) the Judgment expressly resolved any pre-judgment "dispute" between LS&G and

Granite, (iii) LS&G may not assert pre-Judgment rights or pre-Judgment claims based on pre-Judgment facts, since any such claims were waived and merged into the Judgment, (iv) Granite's and LS&G's groundwater rights are governed exclusively by the Judgment, including Exhibit 4, and (v) title to the Production Right is held as stated on Exhibit 4.

LS&G's secondary arguments in opposition are (i) LS&G and Granite never made a "final agreement" regarding "title" to the 234 AF, (ii) the lease between Granite and LS&G is the only agreement that governs the parties' respective groundwater rights "occurring in the land that" LS&G leases to Granite, (iii) the Stipulation and Judgment did not create a joint interest in the Production Right because a pre-judgment "dispute" over title [to the Production Right] remains "unresolved," (iv) the Court has jurisdiction to decide who holds title to the Production Right, (v) Granite holds only a leasehold interest in the Production Right because it is LS&G's tenant, and LS&G holds fee title to the Production Right, and (vi) the equities support a ruling that only LS&G owns title to the Production Right, not Granite. As set forth in Granite's moving papers and in Granite's opposition to LS&G's "Opening Brief" (which Granite hereby incorporates by reference), each of these arguments is either contrary to the Stipulation and Judgment, based on false premises, or otherwise without merit.

Nowhere in its opposition does LS&G explain how the language of the Judgment as a whole can fairly be read as providing anything other than that Granite and LS&G are joint and equal holders of the Production Right (or that Granite, who appears first, is paramount and LS&G, who appears second and in parentheses, is subordinate). Lastly, LS&G does not oppose Granite's request that the Court partition the 234 AF.

II. ARGUMENT

A. LS&G's Principal Argument—That It Reserved A Dispute With Granite For Post-Stipulation Litigation—Is Patently False.

Throughout its opposition, LS&G repeatedly asserts (no less than twelve times) that LS&G reserved its claim to 100% of the joint Exhibit 4 Production Right for post-Stipulation litigation. That assertion is utterly baseless and contrary to fact and law.

1. Only An Express Reservation Of An Issue Can Preserve An Issue For Litigation Following Entry Of A Stipulated Judgment.

"A stipulated judgment is as conclusive as to the matters in issue it determines as a judgment after trial."[1] An exception to the normal res judicata effect of a stipulated judgment "requires that an otherwise included issue be withdrawn by an express reservation."[2] Thus, LS&G could not unilaterally reserve an issue for future litigation. Only by an express reservation in the Stipulation or Judgment could LS&G preserve an issue for future litigation.

2. The Stipulating Parties Expressly Rejected LS&G's Request To Reserve Its Claimed Dispute With Granite For Post-Judgment Litigation.

In November 2014, Mr. Chester on LS&G's behalf asked counsel for other Stipulating Parties to agree to reserve LS&G's claimed issue with Granite for post-judgment judicial determination.[3] (See Decl. of R. Kuhs in Opposition to "Opening Brief," ¶ 11 & Ex. AA.) As reflected in the Stipulation and subsequent emails, the Stipulating Parties rejected LS&G's requested reservation. (See *id.*, ¶ 12 & Exs. BB-DD.) Thus, the Stipulation and Judgment do not reserve any issues or disputes on behalf of LS&G.

3. LS&G's Secret Purported Unilateral Reservation Is Without Any Legal Effect Except To Confirm LS&G's Status As A Non-Stipulating Party.

LS&G's claim that Mr. Chester's February 2015 email—sent only to counsel for the U.S. purporting to conditionally submit LS&G's signature—unilaterally reserved an issue for post-stipulation litigation is baseless, and it certainly does not establish that any issue was reserved for post-*judgment* resolution. As a matter of law LS&G could not both reserve an issue and be party to the Stipulation. (See *Ellena v. State of California* (1977) 69 Cal.App.3d 245, 260.)

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[1] *Sargon Enterprises, Inc. v. University of Southern California* (2013) 215 Cal.App.4th 1495, 1507 (holding that because the stipulated judgment did not reserve any issues for further determination the judgment was final on all issues before the court).

[2] *Ellena v. State of California* (1977) 69 Cal.App.3d 245, 260 (holding that a stipulated judgment in condemnation precluded later litigation by the landowner for severance damages because there was no express language in the stipulation withdrawing the severance damage issue from the scope of the stipulated judgment).

[3] To aid the Court in analyzing the relevant events and communications, Granite has prepared a Chronology of Key Events, attached hereto as Exhibit 1 and incorporated herein by reference.

This email and LS&G's opposition brief confirm, however, that LS&G agreed to the Stipulation only on condition that it could litigate its claimed issue with Granite at a later date, which the stipulated Judgment precludes: "Little Rock is a settling party to the Stipulation for all purposes ***except*** *for the issue of whom, between it and GCC, holds title to the Allocation, as that issue is not resolved by the terms of the Stipulation and was expressly reserved by Little Rock for determination post-Stipulation.*" (Opp., p. 2, ll. 24-26 [emphasis added.] Since LS&G continues vacillating, the Court must first determine whether LS&G is a Stipulating Party.

4. The Court Did Not Reserve LS&G's Claim For Post-Judgment Litigation.

LS&G's argument that "[t]he Court has also recognized that the issue of title" to the joint Production Right "remains outstanding despite Little Rock's execution of the Stipulation" is misplaced because the Court did not reserve any pre-judgment dispute or issue for post-judgment litigation in the Judgment or otherwise.[4] Accordingly, any issue that was "undecided" at the time Judgment was entered was decided by the Stipulation and Judgment. Thus, the Court noted in its March 2016 Order denying the Lane Family's post-judgment motion that this dispute "is limited by the stipulation and judgment," and that "[t]he judgment provides that both Granite and Lane have an interest in the water allocated to those parties but with no determination as to amounts other than the 234 acre feet a year to 'Granite (Little Rock Sand and Gravel).'"

B. While The Court Has Jurisdiction Over The Parties' Dispute, The Court Has No Jurisdiction To Grant The Relief LS&G Seeks.

The parties agree that the Court has jurisdiction to hear this dispute.[5] The parties disagree, however, over the form of relief that the Court may grant in light of the Stipulation and Judgment. LS&G asks the Court to (1) determine Granite's and LS&G's respective correlative

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[4] LS&G relies principally on a minute order issued in January 2015, before the parties had submitted their signatures to the Stipulation, and nearly a year before the Court entered the Judgment. While the Court "reserved [the LS&G issue] for further ***discussion*** after ruling on the Final Approval Hearing of the Wood Class Settlement," then scheduled for June 2015, the Court did not reserve the issue for resolution post-*Judgment.*

[5] LS&G falsely asserts that Granite contends that the Court lacks jurisdiction to decide this dispute. (Opp., p. 7, ll. 27-28.) Granite has consistently maintained that the Court has jurisdiction over the add-on case because LS&G asserts claims within the Court's jurisdiction, i.e., claims regarding groundwater rights in the AVAA. Therefore, the Court has subject matter jurisdiction.

rights to groundwater and, based on that determination, (2) quiet title to the stipulated and negotiated 234 AF Production Right in LS&G's name alone. The Court may do neither. LS&G's requested relief is improper because it asks the Court to determine the parties' respective water rights and to alter the Judgment. Additionally, the Court has already quieted title to the overlying water rights as stated in the Judgment.[6]

The Court may not decide Granite's and LS&G's correlative rights based on their pre-judgment claims and interests. In paragraph 6.5 of the Judgment, the Court reserved jurisdiction "to make such further or supplemental order or directions as may be necessary or appropriate to interpret, enforce, administer or carry out" the Judgment "and to provide for such other matters as are not contemplated by this Judgment and which might occur in the future, and which if not provided for would defeat the purpose of this Judgment." The Court did not reserve jurisdiction to later hear and determine pre-judgment disputes pertaining to the correlative water rights of overlying landowners. Nor could the Court determine Granite's and LS&G's water rights without involving all other correlative rights holders in the basin, and to do so would be reversible error.[7] Nor did the Court reserve jurisdiction to amend or alter the Judgment. Accordingly, the Court may not alter Exhibit 4, but may interpret and enforce it along with the Judgment as a whole.

C. LS&G Implicitly Admits That Granite And LS&G Agreed To Divide The 234 AF Production Right 100/134 And That LS&G Then Spent Two Years Trying To Renegotiate That Deal.

As Granite has consistently maintained, and as counsel for other stipulating parties have documented, in March 2014, during the global settlement discussions, Granite and LS&G agreed

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[6] "Because water rights are a species of real property," the Judgment in effect is a judgment quieting title. (*Tehachapi-Cummings County Water Dist. v. Armstrong* (1975) 49 Cal.App.3d 992, 999, n. 5.)

[7] Correlative rights are measured by reference to, and limited by, the rights of all other correlative rights holders in the basin. (*Tehachapi-Cummings, supra*, at 1001-02; 1 Rogers & Nichols, Water for California (1967) § 174, pp. 235-236 [riparian rights].) Also, the McCarran Amendment precludes piecemeal adjudication.

to divide the 234 AF 100 AF to Granite and 134 AF to LS&G.[8] The only issue Granite and LS&G had not agreed on was which of them might bear the benefit or burden of any later adjustments to the Exhibit 4 234 AF allocation, a contingency that never materialized. Thus, Granite and LS&G reported their agreed division to counsel for other stipulating parties, and the stipulating parties in turn left the bargaining table and reported the global settlement to the Court.

While LS&G has attempted to disavow that agreement by arguing that the parties did not reach a "final agreement," LS&G does not deny and thus implicitly admits that the parties had agreed on the 100/134 division. Nowhere in its opposition does LS&G specifically deny that in March 2014 Mr. Kuhs and Mr. Chester agreed on their clients' behalf to divide the 234 AF 100/134. LS&G only contends that there was no "final agreement" because the parties did not agree on "all terms material to a split of the Allocation." (Opp., p. 5, ll. 8-18; see Decl. of T. Chester ISO "Opening Brief," ¶ 11; Decl. of T. Chester ISO Lane Reply, March 14, 2016, ¶ 8.)[9]

Granite does not contend that the March 2014 gentlemen's agreement is legally enforceable since it was not reduced to writing. Of course, if LS&G possessed the honor to abide by that agreement, we would not be here. Still, the undisputed fact of the agreement to divide the allocation 100/134 coupled with the reliance by Granite and the other Stipulating Parties mean that LS&G is estopped to claim more than 134 AF.[10]

Thus, what LS&G characterizes as the parties spending two years unsuccessfully negotiating a division of the 234 AF was actually two years that LS&G spent trying to *renegotiate* a greater allocation than the parties had agreed to in March 2014. After Granite and

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[8] Decl. of R. Kuhs in Opposition to Lane Family Motion, March 8, 2016, ¶¶ 4-8; Decl. of M. McLachlan, ¶ 6.

[9] LS&G's assertion, without any supporting evidence or authority, that the remaining term was "material" is unconvincing since, as it turned out, there was no further adjustment and LS&G's own conduct in allowing the settling parties to report the global settlement to the Court shows that it was not material, i.e., not essential. (*Steiner v. Mobil Oil Corp.* (1977) 20 Cal.3d 90, 105 [a material term is an essential term].)

[10] *Seymour v. Oelrichs* (1909) 156 Cal. 782, 795 ("[H]e who by his language or conduct leads another to do what he would not otherwise have done shall not subject such person to loss or injury by disappointing the expectations upon which he acted."); Evid. Code § 623.

LS&G reported their agreement to the other settling parties and let them leave the bargaining table, Granite remained steadfast. If LS&G believed there was an unresolved issue, it was incumbent on LS&G to resolve the issue before the Judgment was entered or withdraw from the Stipulation. Since LS&G chose to do neither, the Judgment is the parties' agreement.

D. LS&G Fails To Explain How The Stipulated Judgment Can Reasonably Be Interpreted As Providing That The Entire 234 AF Production Right Allocated Jointly To "Granite Construction Company (Little Rock Sand and Gravel, Inc.)" Belongs Exclusively To LS&G.

The Court must interpret the Stipulation and Judgment, the parties' agreement. In doing so, the Court must apply a few key principles. First, since the Judgment resolved all pre-judgment claims to water, pre-judgment claims are not relevant. Second, since Exhibit 4 was a negotiated allocation of the safe yield agreed to among hundreds of parties based on a myriad of factors (see *Tehachapi-Cummings, supra,* 49 Cal.App.3d at 1001-02), not a judicially-created allocation after an evidentiary hearing, the issue is not what would a court have decided had the parties litigated their rights, but instead what does the stipulated, negotiated Judgment mean?

In its motion, Granite established that the Stipulation and Judgment should be interpreted like a contract, a proposition LS&G does not dispute. Granite also established that Granite and LS&G are equal cotenants to the 234 AF Production Right jointly allocated on Exhibit 4 to "Granite Construction Company (Little Rock Sand and Gravel, Inc.)" because Exhibit 4 is the parties' only agreement regarding the 234 AF (since LS&G repudiated the parties' oral agreement reached during the global settlement discussions). The law presumes co-tenancy in such circumstances.[11] LS&G's opposition fails to establish otherwise. Indeed, nowhere in its opposition does LS&G ever suggest that the Judgment can reasonably be interpreted as providing anything other than that Granite and LS&G jointly and equally hold the 234 AF.

[11] "Every interest created in favor of several persons in their own right is an interest in common," unless acquired in a way not involved here. (Civ. Code, § 686.) Tenants in common under an instrument silent as to their respective shares are presumed to take equally. (*Caito v. United California Bank* (1978) 20 Cal.3d 694, 705; citing *Anderson v. Broadwell* (1931) 119 Cal.App 150, 153 [where several grantees are named in a deed and their respective interests are not set forth therein, it will be presumed that each takes an equal interest].)

LS&G's arguments regarding the Judgment are misplaced. LS&G goes so far as to argue that the Judgment is not really a judgment at all, but instead is "best described as a declaration and quantification of existing groundwater rights with the issue of title to the allocation reserved for post-Stipulation litigation between Little Rock and Granite." (Opp., p. 7, ll. 11-13.)

LS&G asserts that LS&G and Granite are not cotenants to the Production Right because (i) "the dispute over title to the Allocation remains unresolved," and (ii) "the Stipulation and Judgment thereon did not create a joint interest in the Allocation." (Opp., p. 2, ll. 3-5.) Both assertions ignore that the Stipulation and Judgment expressly and finally resolved all disputes (including LS&G's claims) and correlative groundwater rights and established fixed Production Rights. No issue was reserved for post-judgment litigation.

LS&G's assertion that the Stipulation and Judgment did not create a joint interest in the Production Right is meritless. First, LS&G argues that the joint allocation was created by the Court, which is both mistaken and irrelevant. It was negotiated among the Stipulating Parties. Regardless of the source of the language of Ex.4, that is what the parties agreed to, and the allocation was universally recognized as "joint," including by LS&G. (See Decl. of R. Kuhs ISO Opposition to "Opening Brief," ¶¶ 11, 13 & Exs. AA, CC.) Second, LS&G incorrectly argues that Civil Code section 686 "is inapplicable here, because the absence of an agreement between the parties or a determination of this 'undecided' issue by the Court." (Opp. p. 7, ll. 3-6.) Again, LS&G ignores that the Stipulation and Judgment are an agreement between the parties and that the Judgment resolved any "dispute" between them. Third, LS&G's argument that "a tenancy-in-common 'requires . . . equal right of possession or unity of possession" (Opp., p. 7, ll. 6-10) actually favors Granite since the Judgment clearly gives both parties an equal right of possession and, under the lease, Granite is the only party with a present right of possession of LS&G's water rights associated with the Leased Property.[12] Finally, LS&G argues that the Judgment is

[12] LS&G's citation to *Wilson v. S.L. Rey, Inc.* (193) 17 Cal.App.4th 234, 242 is misplaced because the case supports Granite's position that the parties hold the Production Right as tenants in common: "If an estate is conveyed or transferred and it is not expressly declared an estate in joint tenancy . . ., or an estate in partnership, . . . ***it will be held by the grantees or transferees as tenants in common.***" [emphasis added].

"inconclusive, or at best, ambiguous, as to whom, between Little Rock and GCC, owns the Allocation or how much of the Allocation each party owns." (Opp., p.9, ll. 7-10.) The Judgment is not "ambiguous," but LS&G is correct that the Judgment does not expressly state that one party holds more of the jointly-held 234 AF than the other. This is precisely why, if LS&G is found to be a Stipulating Party, the Court must find that the joint allocation is held equally, as the law presumes when parties take title to property jointly.

E. LS&G's "Landlord-Tenant" Theory Of The Case Is Based On False Premises.

LS&G's asserts that the lease between Granite and LS&G controls the parties' water rights, not the Judgment. (Opp., p. 7, ll. 14-21.) As set forth in Granite's opposition to LS&G's "Opening Brief," LS&G's position that the lease governs the parties' water rights is predicated on several false premises and is also without merit based on the terms of the lease itself. (See Granite's Opp. to "Opening Brief," pp. 10-18.) The lease sheds no light on Exhibit 4.

F. Equities Overwhelmingly Favor Granite.

1. LS&G Is The Only Party That Has Sought To Renegotiate The Global Settlement That More Than 100 Stipulating Parties Reached In March 2014.

As Granite established in its moving papers, LS&G's claims are barred by its own bad faith and unclean hands and LS&G is estopped to deny Granite's entitlement to at least 50% of the 234 AF. (Memo, pp. 12-15.) LS&G's own evidence shows it does not deserve equity. Granite has remained steadfast since the parties agreed to divide the 234 AF in March 2014 and informed the other settling parties that they had an agreement. LS&G, by contrast, has misled both the Stipulating Parties and the Court, first by seeking to renegotiate the original agreement, then by letting all parties believe LS&G had dropped its claim for more water by submitting its signature to the Stipulation, only to file a CMC statement months later claiming a dispute remained, but then failing to resolve the claimed dispute or to withdraw its signature to the Stipulation and remaining silent while Judgment was entered. Additionally, LS&G has asserted several blatantly false positions in this Court following the Judgment. Lastly, LS&G has no current or future need

for water—LS&G's land is "played out" and once the lease with Granite terminates, LS&G will be left with an empty sand pit with no water demand.[13]

2. LS&G's Attacks On Granite Are Without Merit.

To bolster its baseless claims, LS&G accuses Granite of "underhandedness," arguing that Granite used the AVG Cases to gain permanent title to LS&G's water rights and "misrepresented" to the Court and the other parties Granite's interests in the basin. (Opp., pp. 12-14.) In its lengthy attack, LS&G points to no instance in which Granite misled or misrepresented any information to the other parties or the Court. LS&G ignores that (1) Granite is a landowner that came to the settlement negotiations with overlying rights of its own, (2) Exhibit 4 was the product of a multi-party negotiation that took many factors into account, (3) the negotiated allocations were not based strictly on pumping history, so Exhibit 4 bears only a loose relationship to the parties' pre-judgment claims, (4) the Stipulating Parties intended to allocate water to Granite, (5) Granite is not seeking to take any rights away from LS&G, and (6) granting the 234 AF to LS&G would eliminate Granite's rights entirely and permanently.

G. LS&G Does Not Dispute That The Court Should Partition The 234 AF.

Granite's motion asks the Court to partition the 234 AF Production Right equally—117 AF to Granite and 117 AF to LS&G. LS&G's opposition does not oppose partition.

III. CONCLUSION

For the reasons stated in Granite's moving papers and above, Granite requests that the Court grant this motion in its entirety.

Dated: June 8, 2018

KUHS & PARKER

By _____
Bernard C. Barmann, Jr., Attorneys for
Granite Construction Company

[13] LS&G argues, without supporting evidence, that it will have a need for water once the Granite lease terminates, including "continuing to rent water rights to third parties" or developing its land for other uses. (Opp., p. 11, ll. 24-28.) LS&G offers no evidence that the empty pit left after Granite's operations cease will have any possible use requiring water. The typography, soil conditions and zoning make residential and agricultural uses virtually impossible.

Exhibit 1

CHRONOLOGY OF KEY EVENTS

The following is a chronology of key events pertaining to this dispute.

Global Settlement Talks Produce Settlement

February 2014 — Court suspends Phase 5 trial on Federal Reserve Rights and Right to Return Flow of Imported Water, permitting parties to participate in global settlement discussions. More than 40 lawyers participated in negotiations over the next several weeks. (Decl. of R. Kuhs in Oppo. to Lane Family Motion, March 8, 2016, ¶ 3.)

March 18, 2014 — Granite negotiates 128 AF allocation for Granite's Big Rock Facility, which was reduced to 126 AF on March 31, 2014. (Decl. of R. Kuhs in Oppo. to "Opening Brief," May 11, 2018, ¶ 4.)

March 31, 2014 — Lawyers representing more than 100 parties met for continued settlement negotiations.

➔ Counsel for Granite and LS&G reach agreement on division of their clients' joint 234 AF – 100 AF to Granite and 134 AF to LS&G; the only unresolved issue was which party would get benefit and burden of any future change in the Exhibit 4 allocation. (Decl. of R. Kuhs in Oppo. to Lane Family Motion, March 8, 2016, ¶ 7.)

All stipulating parties leave the negotiating table believing they have the framework for a global settlement and on Exhibit 4 Production Rights.

Apr. 4, 2014 ➔ Stipulating parties report to the Court that they have reached a global settlement – a physical solution and management plan for the basin – which will take up to 8 weeks to finalize with various clients and governing boards. (Minute Order, 4/14/14 [Ex. C].)

Several Months Later, LS&G Attempts To Renegotiate Its Agreed Allocation

Aug. 2014 ➔ LS&G's counsel Ted Chester begins to suggest that LS&G is not content with the parties' understanding regarding division of the 234 AF. (Decl. of R. Kuhs in Oppo. to Lane Family Motion, March 8, 2016, ¶ 9.)

Aug. 7, 2014 — Draft Exhibit 4 allocation showing a combined allocation to "Granite Construction Company (Little Rock Sand and Gravel, Inc.)" of 360 AF, which included a 126 AF Production Right allocated to Granite's Big Rock Facility. (Decl. of R. Kuhs in Oppo. to "Opening Brief," May 11, 2018, ¶ 4 & Ex. U.)

Aug. 8, 2014 ➔ Ted Chester sends email to counsel for the United States wherein Mr. Chester states that Exhibit 4 must reflect the joint understanding of LS&G and Granite before his client will sign the Stipulation. (Ex. V.)

Aug. 19, 2014 Granite and LS&G meet in person; George Lane accuses Granite of trying to steal his water and stated that the entire 234 AF belongs to Lane Family. (Decl. of R. Kuhs in Oppo. to Lane Family Motion, March 8, 2016, ¶ 10.)

Sept. 3, 2014 Ted Chester sends letter trying to renegotiate the understanding reached during the global settlement discussions. (Ex. D.)

Oct. 29, 2014 Ted Chester sends letter to James Dubois (counsel for the U.S.) wherein Mr. Chester asked Mr. Dubois, without Granite's consent, to alter Exhibit 4 and allocate the entire 234 AF to LS&G. (Ex. W.)

Mr. Kuhs responds to Mr. Chester's letter, objecting to Mr. Chester's last minute attempt to unilaterally renegotiate the Exhibit 4 allocation. As set forth in the email, during the settlement discussions all parties agreed to allocate to Granite a total of 226 AF Production Right and agreed to allocate to LS&G a 134 AF Production Right. (Ex. X.)

Nov. 13-14, 2014 Email exchange among Messrs. Chester, Dubois and Kuhs wherein Mr. Kuhs reiterated the previously agreed allocation for the Little Rock Quarry of 100 AF to Granite and 134 AF to LS&G and requested that the 126 AF allocated to Granite's Big Rock Facility be shown separately on Exhibit 4. (Ex. Y.)

LS&G Unsuccessfully Seeks To Reserve Issue With Granite For Future Litigation

Nov. 18-19, 2014 Email exchange among Ted Chester, Mike McLachlan and Jim Dubois where Mr. Chester indicated that he was going to recommend that the Lane Family sign the Stipulation but also request that the Court determine the division of the entire 360 AF allocation between Granite and Lane including water for Granite's Big Rock Quarry. In response, Mr. McLachlan took exception to Mr. Chester's "last minute renegotiation" of the deal that was struck after hundreds of man hours of negotiations. (Ex. Z.)

Nov. 18, 2014 ➔ Ted Chester sends email to Jim Dubois and Robert Kuhs wherein Mr. Chester acknowledges that the Exhibit 4 rights are allocated to Granite and LS&G "**jointly**" and states that he intends to ask the Court to determine the division of the allocation. (Ex. AA, p.2.)

Nov. 19, 2014 Jim Dubois sends email to Ted Chester expressing concern over Mr. Chester's proposal to reserve the right to litigate LS&G's Exhibit 4 rights, stating "I am not sure how you sign the Stipulation – which includes Exhibit 4 – and then ask for a reopening Exhibit 4 without creating that risk, and I don't see others being willing to allow Exhibit 4 to be 'reopened' for anyone." (Ex. BB.)

Nov. 20, 2014 ➔ **Ted Chester proposes "language for a court-approved stipulation" to reserve the allocation of the 234 AF for post-judgment judicial determination**, including language stating that "Granite and Little Rock intend to agree to the settlement and the Judgment and Physical Solution by executing the Stipulation, but they wish to preserve their ability to litigate (including determination by alternate dispute resolution) all issues concerning the proper division of the allocated production rights between them." (Ex. AA, p. 1.)

Nov. 21, 2014 ➔ Mike McLachlan sends email to Ted Chester reminding Mr. Chester that **on March 31, 2014, all parties reached a deal covering many landowner parties. "As part of that deal, we all agreed to 126 AFY to Granite's Big Rock Facility and to the split Lane and Granite agreed to for Little Rock." McLachlan further states that there was no dispute until LS&G changed its mind in August.** (Ex. CC.)

Nov. 24, 2018 ➔ Email exchange between Mike McLachlan and Ted Chester in which Mr. McLachlan tells Mr. Chester that Mr. Chester "cannot challenge that small section of the overlying landowner pie by itself; *Tehachapi* holds that correlative rights have to be adjudicated with examination of the claims of every other claimant," and calls Mr. Lane's "last minute hostage-taking" completely unacceptable. (Ex. DD.)

Nov. 25-26, 2014 Email exchange among Ted Chester, Jim Dubois and Robert Kuhs agreeing to break out the Big Rock allocation of 126 AF separately on Exhibit 4. (Ex. EE.)

Nov. 26, 2014 Email and draft of Exhibit 4 reflecting that the Big Rock Quarry rights were now separately shown on Exhibit 4. (Ex. FF.)

Granite Affirms Its Intent To Stand By Parties' Agreement

Dec. 10, 2014 Robert Kuhs, Granite's counsel, responds to Mr. Chester's September 3, 2014, letter and Mr. Lane's November 22, 2014, letter, stating that Granite intends to stand by the parties' understanding reached during the global settlement discussions. (Ex. E.)

Dec. 17, 2014 Mr. Chester responds to Mr. Kuhs' letter. (Ex. F.)

Jan. 7, 2015 ➔ Court issues Minute Order reflecting that the Court reserved the LS&G/Granite issue for "further **discussion** after the ruling on the Final Approval Hearing of the Wood Class Settlement," which the Court set for June 1, 2015. (Minute Order, Jan. 7, 2015 [Ex. G].)

Parties Sign Stipulation

Jan. 15, 2015 ➔ Mr. Kuhs emails the settling parties: "I am in receipt of signatures for Tejon and Granite." Ted Chester emails the settling parties later the same day: "I have all of the signatures of my clients." (Ex. L.)

Feb. 20, 2015 ➔ Mr. Chester submits LS&G's signature to Stipulation by email to counsel for the United States only, stating that the signature of LS&G "is provided with the understanding that the subdivision of the joint allocation to Granite and Little Rock shown on Ex. 4 of the proposed judgment remains unresolved, and such subdivision will be addressed and resolved at a later time." **Mr. Chester sent this email only to counsel for the United States.** (Ex. M.)

March 2, 2015 Counsel for the U.S. emails counsel for the stipulating parties a spreadsheet "detailing the parties for which the U.S. has received signed Stipulation pages . . ." Neither the email nor the attached spreadsheet indicates that LS&G's signature was provided conditionally or with any reservation. (Ex. HH.)

March 4, 2015 Counsel for the United States files Stipulation with the Court. (Ex. H.)

LS&G Claims A Dispute Exists But Fails To Pursue Resolution Other Than Judgment

Mar. – Sept. 2015 Court holds several status conferences. Neither Mr. Chester nor LS&G raised the Granite/LS&G dispute in open court. (Decl. of R. Kuhs in Oppo. to Lane Family Motion, March 8, 2016, ¶ 18.)

Sept. 26, 2015 Mr. Kuhs emails Mr. Chester a draft declaration to review in preparation for the prove-up trial. In a response email, Mr. Chester asserted that the dispute between Granite and LS&G remained unresolved. Mr. Kuhs advised Mr. Chester that the Stipulation resolved all disputes between all parties, including the Granite/LS&G dispute. Mr. McLachlan advised Mr. Chester that the Stipulation was dispositive and that pursuit of the dispute would be a violation of the Stipulation, and that if Mr. Chester did not

	drop the issue Mr. McLachlan would file a motion to have LS&G deemed a non-stipulator. (Ex I.)
Oct. 6, 2015	LS&G files a CMC statement claiming that the Granite/Lane dispute was alive and well, but Mr. Chester did not mention the dispute in open court during the October 7, 2015 case management conference and did not ask for any issues relating to the so-called Granite/LS&G dispute to be set for trial. (Decl. of R. Kuhs in Oppo. to Lane Family Motion, March 8, 2016, ¶ 20.)
Oct. 14, 2015	Prove-up trial commenced. Closing arguments occurred on November 3 and 4, 2015. Neither Mr. Lane nor LS&G offered any evidence or objected to the Statement of Decision or Judgment. (Decl. of R. Kuhs in Oppo. to Lane Family Motion, March 8, 2016, ¶ 21.)
Dec. 23, 2015 ➔	Court signed the Statement of Decision and Judgment. (Ex. Q.)

LS&G's Post-Judgment Efforts To Escape Judgment

Jan. 27, 2016	Mr. Chester emails Mr. Kuhs proposing to "settle" on an allocation of 70 AF to Granite and 164 AF to LS&G, otherwise LS&G intends to proceed with a motion. (Ex. J.)
Jan. 31, 2016	LS&G (with "Lane Family") files motion for post-judgment supplemental order.
March 29, 2016	Court issues order denying motion without prejudice. (Ex. P.)
March 6, 2017	LS&G files Complaint in add-on action. First Amended Complaint filed April 10, 2017. (Ex. S.)
May 17, 2017	Granite files Verified Answer to First Amended Complaint. (Ex. T.)

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF KERN

I, Valerie Hanners, declare:

I am employed in the County of Kern, State of California. I am over the age of 18 and am not a party to the within action; my business address is Kuhs & Parker, 1200 Truxtun Avenue, Suite 200, Bakersfield, California 93301.

On June 8, 2018, I caused the foregoing document(s) described as **REPLY IN SUPPORT OF GRANITE'S MOTION TO INTERPRET AND ENFORCE THE JUDGMENT AND TO PARTITION THE EXHIBIT 4 ("Granite Construction Company (Little Rock Sand and Gravel, Inc.)" PRODUCTION RIGHT** to be served on the parties in this action, as follows:

All Parties in the Antelope Valley Groundwater Cases
(Electronic service via Glotrans)

_X_ (BY ELECTRONIC SERVICE) by serving the document(s) listed above via Antelope Valley Watermaster Electronic Document Service – (www.avwatermaster.org) c/o Glotrans, to all parties appearing on the electronic service list for the Antelope Valley Groundwater case. Electronic service is complete at the time of transmission. My electronic notification email address is vhanners@kuhsparkerlaw.com

____ (BY U.S. MAIL) on June 8, 2018, at Bakersfield, California, pursuant to C.C.P. section 1013(a), I:
___ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
___ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is place for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

___ (BY EMAIL TRANSMISSION) on June 8, 2018, at approximately p.m. to:

___ (BY FACSIMILE TRANSMISSION) on June 8, 2018 at approximately ____ p.m., pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was 661/322-2906. A transmission report (copy attached hereto) was properly issued by the sending facsimile machine, and the transmission was reported as completed and without error.

___ (BY PERSONAL SERVICE) on June 8, 2018 pursuant to C.C.P. section 1011, I caused such envelope to be delivered by hand personally to the addressee(s):

___ (BY OVERNIGHT COURIER) on June 8, 2018 pursuant to C.C.P. section 1013I(d), I caused such envelope with delivery fees fully prepared to be sent by Federal Express to **Theodore A. Chester, Jr. at Musick, Peeler & Garrett, LLP**.

___ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and that the foregoing was executed on June 8, 2018, in Bakersfield, California.

Valerie Hanners
Valerie Hanners