

Robert G. Kuhs, SBN 160291  
Bernard C. Barmann, Jr., SBN 149890  
Kuhs & Parker  
P. O. Box 2205  
1200 Truxtun Avenue, Suite 200  
Bakersfield, CA 93303  
Telephone: (661) 322-4004  
Facsimile: (661) 322-2906  
E-Mail: rgkuhs@kuhsparkerlaw.com

Attorneys for Granite Construction Company

**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-  
254-348;

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 353 840, RIC 344 436, RIC 344 668

Judicial Council Coordination No. 4408

Santa Clara Case No. 1-05-CV-049053  
Assigned to Hon. Jack Komar

**EX PARTE APPLICATION FOR A  
PROTECTIVE ORDER; AND  
DECLARATION OF ROBERT G.  
KUHS IN SUPPORT THEREOF**

Date: March 25, 2013

Time: 9:00 a.m.

Place: Telephonic Hearing (Courtcall)

Phase 4 Trial Date: May 28, 2013

**I. NOTICE OF EX PARTE APPLICATION AND APPLICATION**


**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

PLEASE TAKE NOTICE that on March 25, 2013 at 9:00 a.m., or as soon thereafter as  
the matter may be heard, GRANITE CONSTRUCTION COMPANY ("Granite") will apply ex  
parte for a protective order substantially in the form attached as **Exhibit A**.

1 This application is made pursuant to Code of Civil Procedure sections 2030.090,  
2 2031.060 and California Rules of Court, rule 2.551(b).

3 Dated: March 20, 2013

KUHS & PARKER

4  
5 By   
6 Robert G. Kuhs, Attorneys for  
Granite Construction Company

7  
8 **II. DECLARATION OF ROBERT G. KUHS IN SUPPORT OF APPLICATION**

9 I, Robert G. Kuhs, declare as follows:

10 1. I am an attorney at law duly admitted to practice before all courts in the State of  
11 California and counsel of record for Granite.

12 2. On December 12, 2012 the Court issued its Case Management Order for Phase 4  
13 Trial ("CMO") setting the Phase 4 Trial on the issues of (1) current groundwater production of  
14 all parties for the calendar year 2011 and January 1 through November 30, 2012, (2) proof of  
15 claimed reasonable and beneficial use of water for each parcel to be adjudicated, (3) claimed  
16 returned flows from imported water and (4) Federal Reserve rights.

17 3. As more fully set forth in Granite's December 21, 2012 response to the court's  
18 discovery order for Phase 4 Trial, and by January 31, 2013 declaration of William Taylor in lieu  
19 of deposition testimony, Granite owns and leases land within the AVVA on which it operates  
20 Littlerock Quarry, a surface mining and aggregate production operation. Granite's water use is  
21 not metered. Instead, Granite will be required to estimate groundwater production using  
22 confidential production and sales information.

23 4. Granite's direct competitors, Littlerock Aggregate Co., dba Antelope Valley  
24 Aggregate, Inc., Holiday Rock Co., Inc., Service Rock Products, LP and Calmat Land Company,  
25 dba Vulcan Materials are all parties to this proceeding.  
26  
27  
28

1 5. Granite considers its sales and production information extremely confidential and  
2 proprietary and has an overriding interest in insuring that its competitors, and general members  
3 of the public, do not have access to such information.

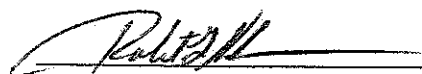
4 6. I have spoken with counsel for Granite's competitors, Mike Davis, James Lewis,  
5 and Michael Fife, as well as William Sloan, counsel for US Borax, Thomas Bunn, counsel for  
6 Palmdale Water District, and Mike McLachlan, counsel for the Woods Class regarding Granite's  
7 concerns, and the need for the attached First Amended Protective Order. I have circulated drafts  
8 of the First Amended Protective Order to such counsel, solicited their comments, and attempted,  
9 where appropriate, to incorporate comments and address their concerns.

11 7. On March 8, 2007, this court entered a Protective Order re Disclosure of Private  
12 Information other than well reports, a copy of which is attached hereto as **Exhibit B**. The  
13 proposed First Amended Protective Order purports to supersede and replace the March 8, 2007  
14 order.

16 8. A major feature of the First Amended Protective Order, is paragraph 3(b), which  
17 allows a party to designate extremely sensitive information as "CONFIDENTIAL-COUNSEL  
18 ONLY" and further limit dissemination of such information to counsel and their retained, non-  
19 party consultants. This feature will allow Granite to comply with the court ordered discovery and  
20 testify at deposition, while protecting its production and sales information.

21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct.

24 Dated this 20<sup>th</sup> day of March, 2013, at Bakersfield, California.

26   
Robert G. Kuhs

27 //

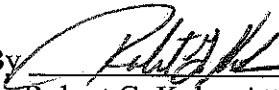
III. POINTS AND AUTHORITIES

When interrogatories or a demand for production of documents have been propounded, the responding party, or any other party may move for a protective order that trade secrets or other confidential information research, development, or commercial information not be disclosed or be disclosed only in a certain way. (Code Civ. Proc., §§ 2030.090; 2031.060.)

Dated: March 20, 2013

Respectfully submitted,

KUHS & PARKER

By   
Robert G. Kuhs, Attorneys for  
Granite Construction Company

f:\919.39 - granite v antelope valley groundwater.abc williams ent\ex parte app for protective order.docx