EXHIBIT 21

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title (Rule 1550(b)) ANTELOPE VALLEY GROUNDWATER CASES	Judicial Council Coordination Proceeding No. 4408 Santa Clara County Superior Court Case No. 1-05-CV-049053 Los Angeles County Superior Court Case No. BC 325201 Assigned to the Honorable Jack Komar (Ret.) Department 17C **JOINT OPPOSITION TO MOTION OF LONG VALLEY ROAD, L.P. FOR LEAVE TO INTERVENE IN JUDGMENT; OBJECTIONS TO THE DECLARATIONS OF ANDREW W. HOMER AND BRUCE E. PHERSON, JR., FILED IN SUPPORT OF THE MOTION; AND OBJECTION TO THE PROPOSED ORDER ON THE MOTION** Date: November 1, 2018 Time: 9:00 a.m. Dept:

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE BE ADVISED that GRIMMWAY ENTERPRISES, INC., DIAMOND FARMING COMPANY, LLC, CRYSTAL ORGANIC FARMS, LLC and LAPIS LAND COMPANY, LLC, GRANITE CONSTRUCTION COMPANY, TEJON RANCHCORP, BOLTHOUSE PROPERTIES, LLC, WM. BOLTHOUSE FARMS, INC., CITY OF LOS ANGELES AND LOS ANGELES WORLD AIRPORTS, COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY NOS. 14 AND 20, all parties to the Second Amended Stipulation for Entry of Judgment and Physical Solution as accepted and approved by the Court and apart thereof.

I. INTRODUCTION.

The Motion to Intervene in the Judgment must be denied for both procedural and substantive legal reasons:

a. The moving party is and was at all material times a member of the Small Pumpers Class, did not opt out after notice and an opportunity to do so, and is named in the Judgment as a party bound by the Judgment;

b. This motion is an impermissible collateral attack on this Judgment;

c. The evidence proffered in support of the motion is extrinsic to the Judgment Roll and therefore inadmissible and objected to in its entirety;

d. Code of Civil Procedure section 387 is a statutory procedure reserved for interested non-parties and therefore not applicable to the moving party's effort to secure the relief sought; and,

e. If applicable, the moving papers are defective in that the required proposed answer and/or complaint, mandated by Code of Civil Procedure section 387(c), has not been filed with the moving papers, thereby rendering the motion procedurally defective.

II. ARGUMENT.

The Motion by LONG VALLEY ROAD, L.P. ("Long Valley"), attempts through this collateral attack to overturn the finality and the certainty of the Judgment entered on December 23,

2015[1], and thereby implicates the rights of virtually every landowner within the area of adjudication to pump groundwater now, and in the future. The Motion purports to be based upon the provisions of Code of Civil Procedure section 387, but as explained below, a motion to intervene under 387 is not appropriate because Long Valley is already a party to the Judgment. The Motion is also defective because the moving papers did not include the proposed answer and/or complaint as mandated by subsection (c) of that code section. Any proposed complaint as required by C.C.P. section 387(c) would of necessity have to name virtually every landowner within the area of adjudication. Thus, the finality and certainty achieved by the Judgment after nearly two decades of litigation and as entered on December 23, 2015, would be irreversibly jeopardized and all parties to that Judgment would be adversely affected if Long Valley was allowed to shed its Small Pumper Class status and relitigate its water right. In substance, this litigation would start anew.

A. LONG VALLEY ROAD, L.P. IS A PARTY BOUND BY THE JUDGMENT.

The Judgment, paragraph 3.d. states as follows:

> "d. Each member of the Small Pumper Class can exercise an overlying right pursuant to the Physical Solution. The Judgment Approving Small Pumper Class Action Settlements is attached as Exhibit C ("Small Pumper Class Judgment") and is incorporated herein by reference."

Now that the Watermaster has discovered that Long Valley's water use far exceeds its class allocation, Long Valley claims that this Court never had jurisdiction over Long Valley because it does not fit the class definition and seeks to have the Judgment set aside and its water rights determined anew. Exhibit "C" to the Judgment is the "JUDGMENT APPROVING SMALL PUMPER CLASS ACTION SETTLEMENTS." That Judgment recites the history of the 2013 partial settlement and the 2015 settlement by the class. Commencing on page 2 of that Judgment, the Court made the following FINDINGS:

> 'A. The Court has jurisdiction over all parties to the Settlement Agreement **including Class members who did not timely opt out of the Settlement.**' **[Emphasis Added.]**

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[1] Notice of Entry of Judgment was served on December 28, 2015.

. . .

'E. The Small Pumper Class Action was filed on June 3, 2008 against certain public water entities asserting claims for declaratory relief, quiet title, and various claims related to the alleged taking of water rights. The Small Pumper Class action was subsequently added to the Coordinated Cases.'

. . .

'G. Notice of the pendency of this class action was initially provided to the Class by mail and publication, with a final opt out date of December 4, 2009.'

. . .

'H. On October 25, 2013, the Court issued an order preliminarily approving the 2013 Partial Settlement. Notice of this Settlement was provided in accordance with the Court's order preliminarily approving the settlement and the terms of the Settlement Agreement. Notice was given in an adequate and sufficient manner, and constituted the best practicable notice under the circumstances. Those class members who timely opted out of this Partial Settlement, or in response to the initial class notice in 2009 (and who did not subsequently opt back into the Class) are not bound by the settlements or this Judgment (but may be bound by the final judgment in these coordinated proceedings). On or about January 7, 2014, the Court approved the 2013 Partial Settlement between the Small Pumper Class and the 2013 Settling Defendants.'

. . .

'I. On April 6, 2015, the Court issued an order preliminarily approving the 2015 Settlement. Notice of this Settlement was provided in accordance with the Court's order preliminarily approving the settlement and the terms of the Settlement Agreement. Notice was given in an adequate and sufficient manner, and constituted the best practicable notice under the circumstances, as set forth in the Declaration of Jennifer M. Keogh and Michael D. McLachlan, both filed June 4, 2015. No class member timely filed an objection to the 2015 Settlement.'

. . .

'K. **All members of the Class who did not opt out of the Class shall be subject to all the provisions of the 2013 Partial Settlement, the 2015 Settlement, and this Judgment as entered by the Court (the "Settlement Class" members). The known Small Pumper Class members are listed in Exhibit A, attached hereto.**'" **[Emphasis Added.]**

This moving party is identified as a party to that Judgment and therefor the overall Judgment on page 29 of Exhibit "A" to the "JUDGMENT APPROVING SMALL PUMPER CLASS ACTION SETTLEMENTS."

This Court on the basis of the foregoing recited findings ordered as follows:

". . . IT IS HEREBY ORDERED, ADJUGED AND DECREED:

. . .

'2. The Settlement Class members and their heirs, successors, assigns, executors or administrators are permanently barred and enjoined from instituting, commencing, prosecuting, any Released Claim against any of the Released Parties in any forum, other than claims to enforce the terms of the Settlement Agreement. Each member of the Settlement Class has waived and fully, finally and forever settled and released, upon this Judgment becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent Released Claim, whether or not concealed or hidden, without regard to the subsequent discovery of different or additional facts.'

. . .

'5. **The Small Pumper Class members are bound by the Judgment and Physical Solution, and their rights and obligations are relative to future groundwater use are set forth therein.**'" [Emphasis Added.]

Long Valley now seeks to impermissibly challenge the Court's recited findings which are now conclusively binding and which established its status as a member of the Small Pumper Class, and thus a party bound by the Judgment. Long Valley did not, even after notice on at least three separate occasions, opt out or otherwise object or contest its class member status in 2009, 2013, or 2015. Long Valley's impermissible collateral attack on the Judgment, cannot be entertained, and the Court must deny this motion.

Class members who failed to opt out within the period specified in the notice are deemed members of the Class. Thus, they generally will not be permitted to "opt out" later if they do not like a proposed settlement or other development in the case. *Officers for Justice v. Civil Service Comm'n* (9th Cir. 1982) 688 F.2d 615, 634-635.

B. LONG VALLEY'S MOTION IS AN IMPERMISSIBLE COLLATERAL ATTACK ON THE JUDGMENT.

Attacks on a judgment in the trial court are generally classified as either "direct" or "collateral." 8 Witkin, Cal. Procedure (5TH ed. 2008) Attack on Judgment, § 1, p. 583. A direct attack on a judgment must be made by one of the recognized statutory methods, such as a motion for new trial or to vacate the judgment. (*Id.* § 2, p. 584.) A motion to directly attack the judgment must be made within strict statutory time limits, e.g., within 15 days after notice of entry of judgment or, if no notice is served, within 180 days after judgment. See Code Civ. Proc., § 663a. All other attacks in the trial court after the statutory time period has run are collateral attacks. 8 Witkin, Cal. Procedure (5TH ed. 2008) Attack on Judgment, § 6, p. 590 and § 8, p. 592.

Here, Judgment was entered on December 23, 2015, and Notice of Entry of Judgment was served by posting on December 28, 2015. Thus, the time within which to make a direct attack has long since passed. Long Valley's attack is collateral and, as discussed below, extrinsic evidence is not admissible.

Long Valley attempts to attack the Judgment based upon extrinsic evidence attempting to establish that it did not satisfy the definition of the Small Pumper Class. Long Valley's attack fails because a judgment of a court of general jurisdiction is presumed to be valid, i.e., the court is presumed to have jurisdiction of the subject matter and the person, and to have acted within its jurisdiction. 8 Witkin, Cal. Procedure (5TH ed. 2008) Attack on Judgment, § 5, p. 589. And, since Long Valley's attack is collateral, the presumption of jurisdiction is conclusive and extrinsic evidence is not admissible to rebut the presumption that this Court has jurisdiction over Long Valley as a member of the small pumper class.

> "Where a collateral attack is made on a California judgment, the presumption of jurisdiction is **conclusive** if the jurisdictional defect does not appear on the face of the record. Hence, the validity of the judgment cannot be challenged by collateral attack unless a jurisdictional defect appears on the judgment roll." [Citations Omitted.] 8 Witkin, Cal. Proc. (5th ed. 2008) Attack on Judgment, § 11, p. 594.

As set forth above, the jurisdictional facts as to the Small Pumper Class are set forth in the Judgment, Exhibit "C" to the Final Judgment. Nothing in the Judgment Roll (C.C.P. § 670) evidences a lack of jurisdiction. Given the absence of a timely authorized "direct attack" the findings of jurisdiction are now conclusive, and the proffered extrinsic evidence is inadmissible and cannot be considered.

C. THE EVIDENCE PROFFERED IN SUPPORT OF THE MOTION IS EXTRINSIC TO THE JUDGMENT ROLL AND THEREFORE INADMISSIBLE AND OBJECTED TO IN ITS ENTIRETY.

General Objection to Declarations in Support of Motion to Intervene and Exhibits

Objectors hereby object to the entirety of the Declarations of Bruce E. Pherson, Jr. and Andrew W. Homer made in support of Long Valley Road, L.P.'s Motion to Intervene in Judgement, and all of the Exhibits attached thereto or referred to therein, on the grounds that the findings, terms and validity of the Judgment cannot now be challenged by collateral attack since the jurisdictional defect does not appear on the judgment roll. (*Estate of Wise* (1949) 34 C.2d 376, 382.) "Extrinsic

evidence is wholly inadmissible, even though it might show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704, 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v. Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic evidence in order to collaterally attack its identified status as a member of the Small Pumper Class and the Judgment.

Specific Objection Number 1

PHERSON DECLARATION, paragraph 7, page 3, lines 14-18: "Beginning in approximately June 2006 with respect to its "Well #1," and approximately July 2006 with respect to its and "Well #3" at Treeland Antelope Valley, and in each consecutive 12-month period and each consecutive calendar year, LVRP and Boething Treeland have pumped and used significant amounts of groundwater from beneath the Treeland Antelope Valley property via the Production Wells."

Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704, 708.) Objectors further object that this paragraph calls for speculation as to what constitutes the pumping and use of significant amount of groundwater.

Specific Objection Number 2

PHERSON DECLARATION, paragraph 8: "Beginning in August 2008, Boething Treeland began recording its water usage by reading meters on the Treeland Antelope Valley Production Wells, and manually noting the combined number of acre-feet pumped in each month. Neither LVRP nor Boething Treeland have such records for water used between June 2006 (completion of Well #1) and August 2008, but water use at the property during that period, and associated pumping from the Production Wells, were consistent with current water use and pumping and in any event was not less than twentyfive acre-feet in any year since LVRP purchased the Treeland Antelope Valley property. A true and correct copy of a spreadsheet showing combined Well # 1 and Well #3 water production from August 1, 2008

through August 3, 2018, based on combined meter reads for these Production Wells, is included as Exhibit D. Well #2, which is not used for primary irrigation and only for auxiliary purposes, is not equipped with a meter. Treeland Antelope Valley's staff estimates that water usage from Well # 2 since it was completed in 2006 was less than three acre-feet per annum ("AFA")."

Objectors hereby object on the grounds that the terms and validity of the Judgment cannot be challenged by collateral attack unless a jurisdictional defect appears on the judgment roll. (*Estate of Wise* (1949) 34 C.2d 376, 382.) "Extrinsic evidence is wholly inadmissible, even though it might show that jurisdiction did not in fact exist." (*Hogan v. Superior Court* (1925) 74 Cal.App. 704, 708.) This presumption applies "to all varieties of judgment, decrees or orders." (*Lieberman v. Superior Court* (1925) 72 C.A. 18, 34.) Long Valley Road, L.P. is attempting to admit extrinsic evidence in order to collaterally attack the Judgment. Objectors further object that this paragraph calls for speculation as to the water usage in "Well #2" since 2006.

Specific Objection Number 3

PHERSON DECLARATION, paragraph 9: "While LVRP and Boething Treeland do not have contemporaneous records of groundwater pumping through the Production Wells between June 2006 and August 2008, because each of LVRP's Production Wells is metered and the same meters have been used since inception and for the duration of pumping, it is possible to calculate such production by subtracting total recorded production from August 2008 to the present, as reflected in Exhibit D, from the cumulative totals recorded on the two Production Wells' meters. The meters were installed when the wells were completed, and have not been replaced or otherwise altered since initial installation. As of October 4, 2018, the meters show cumulative production of 1,801 acre-feet (Well #1) and 1,886 acre-feet (Well #3), or a total of 3,687 acre-feet produced through the two Production Wells since Well 1 was completed in June 2006 ("Metered Total Production"). The combined production for the two Production Wells for the period August 1, 2008 through September 30, 2018, as reflected in Exhibit D, is 3,296 acre-feet ("Partial Recorded Production"). Subtracting the Partial Recorded Production from the Metered Total Production leaves a total of 391 acre-feet, which LVRP believes