

Amended Judgment

Agreement for Settlement of Water Rights Dispute

Stipulation and Order

RECORDED
VOL. 2 PAGE 33

JUL 24 1967

ANN M. WEBB
COUNTY CLERK MONO COUNTY
BY: *[Signature]*
DEPUTY CLERK

ENTITLED TO: *[Signature]*
COUNTY CLERK

1 N. EDWARD DENTON
2 Attorney at Law
3 Mono County Courthouse
4 Bridgeport, California
5
6
7
8 Attorney for Defendant
9 Mammoth County Water District

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF MONO

10 JESS W. CHANCE, MILDRED F. CHANCE,
11 and GERALD N. CHANCE, dba JESS CHANCE
& SONS,

12 Plaintiffs,

13 vs.

14 MAMMOTH COUNTY WATER DISTRICT,
15 a county water district of the
16 State of California, et al.,

17 Defendants.

NO. 3244

AMENDED JUDGMENT

18 Stipulation by and between the parties plaintiffs, and defendants, and
19 their respective counsel having been duly filed and amended findings of fact and
20 conclusions of law having been waived.

21 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

22 1. Plaintiffs JESS W. CHANCE, MILDRED F. CHANCE and GERALD N. CHANCE are
23 the owners in fee of the following described real property in Mono County con-
24 taining in total 400 acres more or less and described as the East half of North-
25 west quarter, West half and Southeast quarter of Northeast quarter, and West
26 half of Southwest quarter of Section 34; Southwest quarter of Northwest quarter
27 of Section 35; and South half of Southeast quarter of Section 33; all in Township
28 3 South, Range 28 East, M.D.B. & M. All of said real property is riparian to
29 Mammoth Creek, also known as Hot Creek.

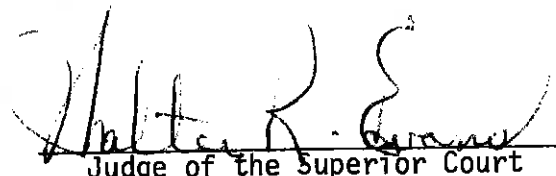
30 2. Plaintiffs own riparian rights which are part and parcel of all their
31 said real property to divert and use such amounts of the natural flow of Mammoth
32 Creek, as may be necessary for the beneficial purposes to which such real prop-

EXHIBIT A

1 erty is or may be devoted under reasonable methods of diversion and use.

2 3. Defendant Mammoth County Water District owns by way of appropriation
3 under Application No. 17770, Permit No. 11463, from the State Water Rights
4 Board, State of California, the right to divert two cubic feet per second, sub-
5 ject to the issuance of license by said board, and said right to divert hence-
6 forth is invulnerable to diminution by reason of said plaintiffs' above stated
7 riparian water rights.

8 Dated: July 24th 1967

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11 _____
12 Judge of the Superior Court

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AGREEMENT FOR SETTLEMENT OF WATER RIGHTS DISPUTE

1 This agreement, dated this 17th day of July, 1967,
2 between JESS W. CHANCE, MILDRED F. CHANCE and GERALD N. CHANCE, dba JESS CHANCE
3 & SONS, hereinafter called "Chance" and MAMMOTH COUNTY WATER DISTRICT, hereinafter
4 called "the District".

5 W I T N E S S E T H :

6 WHEREAS, the parties hereto wish to resolve the disputes between them
7 arising out of the restrictions upon the diversion of water by the District
8 under its Water Right Application 17770, Permit 11463 by virtue of the restrict-
9 ions contained in paragraph 8 of said Permit and the restrictions contained in
10 the "Judgment Declaring Water Rights and Granting Permanent Injunction", entered
11 in Action No. 3244 of the Superior Court of the State of California in and for
12 the County of Mono on July 6, 1964;

13 IT IS HEREBY AGREED between the parties hereto as follows:

14 1. Upon execution of this agreement, the District shall pay to Chance
15 the sum of Fifteen Hundred Dollars (\$1,500.00).

16 2. Upon execution of this agreement, the parties and their attorneys shall
17 execute the "Stipulation and Order" in the form attached hereto and made a part
18 hereof.

19 IN WITNESS WHEREOF, the parties hereto have executed this agreement on the
20 day and year first above written.

21 Jess W. Chance
22 Jess W. Chance

23 Mildred F. Chance
24 Mildred F. Chance

25 Gerald N. Chance
26 Gerald N. Chance

27 Grant A. ...

28 MAMMOTH COUNTY WATER DISTRICT

29 By Ben S. ...

30 By ...

31
32

RECEIVED

MAY 1 1964

KRONICK, MOSKOVITZ
& VANDERLAAN

1 N. EDWARD DENTON
Attorney at Law
2 Mono County Courthouse
Bridgeport, California
3
4 Attorney for Defendant
Mammoth County Water District

Edward A. Denton

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF MONO

10 JESS W. CHANCE, MILDRED F. CHANCE,
11 and GERALD N. CHANCE, dba JESS CHANCE
& SONS,

12 Plaintiffs,
13 vs.

NO. 3244

13 MAMMOTH COUNTY WATER DISTRICT,
14 a county water district of the
State of California, etal.,

STIPULATION AND ORDER

15 Defendants.
16

17 WHEREAS, prior hereto State Water Rights Board of the State of California
18 under Permit No. 11463, Application No. 17770, issued to the defendant Mammoth
19 County Water District in paragraph 8 thereof states the following limiting con-
20 dition for the diversion of up to two cubic feet per second of water from the
21 flow of Mammoth Creek: "At such times during August and September of each year
22 that flow, in Mammoth (Hot) Creek at or near U.S. Highway 395 Crossing in Section
23 32, T3S, R28E, MDB&M, does not exceed 11.0 cubic feet per second, permittee shall,
24 upon demand of Protestants Chance, release into Mammoth Creek from a nontributary
25 source at any point between Twin Lakes and said highway crossing sufficient water
26 to provide a flow of 11.0 cubic feet per second at said highway crossing; pro-
27 vided, however, permittee shall not be required to release water into Mammoth
28 Creek at a rate in excess of that being diverted by permittee from Twin Lakes."

29 WHEREAS, on July 6, 1964, in the above-entitled action there were filed
30 "Findings of Fact, Conclusions of Law Declaring Water Rights and Granting Perm-
31 nent Injunction" against the defendant Mammoth County Water District and per-
32 sons acting for or claiming under said defendant, said judgment being recorded

1 the same day in Volume 1 at page 395, Judgments and Decrees. Said Judgment
2 stated a limitation on diversions by said defendant requiring that the water
3 flow at said crossing was to be not less than 6.67 cubic feet per second, and
4 further the period of limitation was the irrigation season between May 1 and
5 October 1 of each year.

6 WHEREAS, on or about December 9, 1966, there was filed and served in
7 the above-entitled action an Order to Show Cause Re Contempt, which as the
8 result of completed settlement negotiations now stands as "off calendar"
9 with no further proceeding thereon other than the consummated agreement of the
10 parties hereto.

11 WHEREAS, settlement negotiations concerning the elimination in per-
12 petuity of the limitation in the above-entitled action are being consummated
13 in this Stipulation by and between the parties hereto, and their respective
14 counsel.

15 IT IS THEREFORE HEREBY STIPULATED AND AGREED by and between the parties
16 hereto, and their respective counsel, (1) that said Findings of Fact, Con-
17 clusions of Law and said Judgment filed July 6, 1964, be set aside, (2) that
18 other or amended findings of fact and conclusions of law be waived, and (3)
19 that an Amended Judgment be entered in the above-entitled action in sub-
20 stantially the form of Exhibit A, attached hereto and made a part hereof.

21 Dated: July 17, 1967

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23 Adolph Moskowitz
24 Attorney for the Plaintiffs

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26 A. Edmund D. [Signature]
27 Attorney for the Defendants
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CONSENT IS HEREBY GRANTED TO
THE ABOVE STIPULATION:

Jess W. Chance
Jess W. Chance

Mildred F. Chance
Mildred F. Chance

Gerald N. Chance
Gerald N. Chance

MAMMOTH COUNTY WATER DISTRICT

By Ben S. Elliott
Ben S. Elliott, Chairman
and President of Mammoth
County Water District

By David Schoradt
David Schoradt, Secretary
Of Mammoth County Water
District

IT IS SO ORDERED:

Dated July 24th 1967

Walter R. Evans
Judge of the Superior Court