

EXHIBIT C
PROPOSED STIPULATED JUDGMENT
ATTACHED

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF _____

,		Case No.
	Plaintiff,	
v.		
,		
	Defendant.	

1 [TOC PLACEHOLDER]

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1 **INTRODUCTION AND BACKGROUND INFORMATION**

2 **A. Judgment.** This Judgment is entered pursuant to Code of Civil Procedure sections
3 830 et seq., to comprehensively determine and adjudicate all Groundwater rights in the Borrego
4 Springs Subbasin (“Basin”) of the Borrego Valley Groundwater Basin, whether based on
5 appropriation, overlying right, prescriptive right, or other basis of right in the Basin; and to
6 provide a physical solution for the perpetual management of the Basin, which long-term
7 management will achieve Sustainable Groundwater Management for the Basin consistent with the
8 substantive objectives of the Sustainable Groundwater Management Act (“SGMA”) and with
9 reasonable and beneficial use under Article X, section 2 of the California Constitution. This
10 Judgment considered together with the Groundwater Management Plan (“GMP”) attached hereto
11 as **Exhibit “1”** constitutes the Physical Solution; provided, however, that the provisions of this
12 Judgment control over and supersede any contrary provisions contained in the GMP.

13 **B. Basin.** The Basin is located in eastern San Diego County, California and underlies
14 the unincorporated community of Borrego Springs and surrounding areas. The Basin includes
15 three management areas: the north, central and south management areas. The California
16 Department of Water Resources (“Department” or “DWR”) designated the Basin as a critically
17 overdrafted high-priority basin under SGMA.

18 **C. Stipulation for Entry of Judgment.** A substantial majority of the Parties
19 (“Stipulating Parties”), by number and by quantity of water rights herein adjudicated, stipulated
20 for entry of a judgment in substantially the form of this Judgment. The stipulation for entry of
21 judgment (“Stipulation”) is dated _____ and attached to this Judgment as **Exhibit “2.”**

22 **D. Pleadings.** The Complaint in this action was filed on _____, 2020, by
23 Plaintiff, Borrego Water District (“District”), in the Superior Court for the County of San Diego,
24 seeking a comprehensive determination of Groundwater rights and adjudication of water rights in
25 the Basin pursuant to Chapter 7 (commencing with section 830) of Title 10, Part 2 of the Code of
26 Civil Procedure. BWD, together with the County of San Diego (“County”), established a GSA
27 for the Basin pursuant to SGMA in 2016. The County withdrew as a GSA, effective December
28 31, 2019. The Stipulating Parties represent to this Court that the optimal means of achieving

1 Sustainable Groundwater Management for the Basin consistent with the directives of SGMA and
2 Article X, section 2 of the California Constitution, and to achieve a durable solution to alleviate
3 the significant Overdraft now occurring in the Basin, is by way of this Comprehensive
4 Adjudication of Groundwater rights, the substitution of the Watermaster in place of the GSA and
5 the substitution of this Judgment as an alternative to a GSP under SGMA as approved by the
6 Department and as authorized by Water Code sections 10733.6 and 10737.4. BWD filed the
7 Complaint in this action, pursuant to the Stipulation among the Stipulating Parties, to undertake
8 the Comprehensive Adjudication of Groundwater rights of the Basin pursuant to sections 830 et
9 seq. of the Code of Civil Procedure and so comply with SGMA. Upon entry of this Judgment
10 establishing the Watermaster, BWD is to withdraw as a GSA by notifying the Department under
11 Water Code section 10723.8(e).

12 **E. Notice of Commencement of Groundwater Basin Adjudication.** A Notice of
13 Commencement of Groundwater Basin Adjudication with the information required by Section
14 836 of the Code of Civil Procedure was lodged with the Court on [DATE].

15 **F. Answer To Adjudication Complaint.** A draft Answer to Adjudication
16 Complaint (“Form Answer”) in the form required by Section 836 of the Code of Civil Procedure
17 was lodged with the Court on [DATE].

18 **G. Court Approval of Notice & Form Answer.** BWD filed a motion pursuant to
19 section 836 of the Code of Civil Procedure, and on [DATE], the Court approved the Notice of
20 Commencement of Groundwater Basin Adjudication and draft Answer to Adjudication
21 Complaint and authorized service of the landowners overlying the Basin pursuant to Section 836
22 of the Code of Civil Procedure.

23 **H. Service.** All holders of fee title to real property in the Basin were identified using
24 the assessor or assessors of the County, and served by registered mail or certified mail, return
25 receipt requested, or by other means authorized by the Court, the Notice, Complaint, and Form
26 Answer to all holders of fee title to real property in the Basin. Where the physical address of the
27 real property differed from the mailing address of the holder of fee title, the Notice, Complaint,
28 and Form Answer were mailed by registered or certified mail, return receipt requested, to the

1 physical address of the real property and the mailing address of the holder of fee title. The notice
2 was also published at least once per week for four consecutive weeks in one or more newspapers
3 of general circulation in the County on all persons interested in the proceeding, consistent with
4 Code of Civil Procedure section 835 and orders of this Court. A notice of completion of mailing
5 was filed with the Court on [DATE] consistent with Code of Civil Procedure section 836.

6 **I. Notice.** BWD provided the Notice and Form Answer to the Department and the
7 County. The Department and County provided a link to the Notice and Form Answer on the
8 home page of their respective websites consistent with Code of Civil Procedure section 836(m).

9 **J. Parties.** All persons who hold fee simple ownership in a parcel in the Basin, or
10 Pumps or stores water in the Basin, or that claim any other right or interest in the Basin are
11 subject to the jurisdiction of the Court in this proceeding pursuant to Code of Civil Procedure
12 sections 830 et seq.

13 **K. Defaults.** Numerous Parties have failed to respond timely, or at all, to the
14 Complaint, and their defaults have been entered. The Court has given the defaulted Parties notice
15 of this Judgment and Physical Solution, together with the opportunity to be heard regarding this
16 Judgment, and hereby enters default judgments against all such Parties and incorporates those
17 default judgments into this Judgment.

18 **L. Jurisdiction.** By the pleadings herein, operation of sections 830 et seq. of the
19 California Code of Civil Procedure, and by Order of this Court, the issues have been made those
20 of an in rem adjudication of all Basin Groundwater rights as between each and all of the Parties.
21 Having complied with the notice and service requirements of Section 836 of the Code of Civil
22 Procedure, the in rem jurisdiction over all Basin Groundwater rights and the comprehensive effect
23 of this Comprehensive Adjudication have been established. This Court has jurisdiction of the
24 subject matter of this action and of the Parties herein.

25 **M. Stipulation for Entry of Judgment.** The Stipulating Parties represent a
26 substantial majority of the Pumps, by number and by quantity of water rights defined herein.
27 The Judgment is consistent with and meets the requirements of Code of Civil Procedure section
28 850(b). The Stipulating Parties represent approximately __ percent of all Pumps and

1 approximately __ percent of all BPA in the Basin. The Stipulating Parties intend for this Court to
2 comprehensively adjudicate all Groundwater rights in the Basin. BWD submitted the form of this
3 Judgment, inclusive of the GMP which together constitutes the Physical Solution that is
4 established by this Judgment, to DWR for review and approval to serve as an alternative to a GSP
5 pursuant to SGMA. (Wat. Code, §§ 10733.6; 10737.4.) DWR's approval was issued on
6 _____, 20__.

7 **DECREE**

8 **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

9 **I. DEFINITIONS AND EXHIBITS**

10 **A. Definitions.** As used in this Judgment, the following terms shall have the meaning
11 set forth below.

12 1. 2030 Target – A cumulative Basin-wide Rampdown of 50 percent by
13 Water Year 2029-2030.

14 2. Adaptive Management – Changes to Basin management based on new data
15 or improving science collected or acquired over time necessary to achieve and sustain Sustainable
16 Groundwater Management and reasonable and beneficial use of the Basin's water resources.

17 3. Adjusted Pumping Calculation – As defined in Section IV.E.4.

18 4. AFY – Acre-feet per Water Year.

19 5. Annual Allocation – The maximum amount of Pumping allowed for a
20 Party to this Judgment in a given Water Year (excepting any Pumping of Carryover or imported
21 water if available), which for any particular Water Year will be determined by multiplying the
22 Party's BPA by the Pumping Percentage in effect for that Water Year. Annual Allocation will be
23 rounded to the nearest whole acre-foot.

24 6. Annual Report – An annual report of Basin management and Watermaster
25 activities filed with this Court pursuant to Section IV.E(5) herein.

26 7. Basin – Borrego Springs Subbasin of the Borrego Valley Groundwater
27 Basin as defined by California Department of Water Resources (DWR) Bulletin No. 118 as
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1 Subbasin No. 7-024.01. The boundaries of the Basin are set forth in DWR Bulletin 118, Subbasin
2 No. 7-024.01.

3 8. Baseline Pumping Allocation (BPA) – The maximum allowed Pumping
4 quantity allocated to a Party to this Judgment.

5 9. BPA Parcel(s) – The parcel(s), identified by assessor parcel numbers, to
6 which BPA is assigned, and on which Groundwater Pumped pursuant to the Annual Allocation
7 will be used.

8 10. BVHM – The Borrego Valley Hydrologic Model developed by the U.S.
9 Geological Survey using the numerical modeling code MODFLOW One-Water Hydrologic Flow
10 Model (OWHM) Version 1.0 software, which has been updated by the GSA's consultant to
11 extend the simulation period to September 2016, and is to be periodically updated to further
12 extend the simulation periods through the processes discussed in Section III.F.

13 11. BWD – Borrego Water District.

14 12. Carryover – Any portion of a Party's Annual Allocation not Pumped in the
15 Water Year in which it is allowed, which may be accrued and produced in future Water Years,
16 provided that the Party complies with the provisions of Section III.B herein.

17 13. CEQA – California Environmental Quality Act, California Public
18 Resources Code section 21000 et seq.

19 14. Complaint – The complaint filed in the underlying action for a
20 Comprehensive Adjudication of Groundwater rights of the Basin pursuant to the Code of Civil
21 Procedure sections 830 et seq.

22 15. Comprehensive Adjudication – An action filed in superior court to
23 comprehensively determine rights to extract groundwater in a basin. (Code Civ. Proc., § 832(c).)

24 16. County – The County of San Diego.

25 17. Cure Period – As defined in Section III.I(3).

26 18. De Minimis Pumper – Any Party who Pumps two acre-feet or less per year
27 for use on real property overlying the Basin.

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1 19. “DWR” or “Department” – The California Department of Water
2 Resources.

3 20. Eligibility Requirement – As defined in Section III.I(2).

4 21. Eligibility Proof – As defined in Section III.I(2).

5 22. Eligibility Violation – As defined in Section III.I(3).

6 23. Entry Agreement – An agreement between Watermaster and a Party to
7 enter private property consistent with the form of the template agreement set forth in Exhibit “8”.

8 24. Environmental Working Group (EWG) – As defined in Section IV.H.

9 25. Form Answer – A draft, form Answer to Adjudication Complaint approved
10 by the Court pursuant to section 836 of the Code of Civil Procedure.

11 26. Fourth Five-Year Period – Water Years 2035/2036 through 2039/2040.

12 27. Groundwater – Water beneath the surface of the earth within the zone
13 below the water table in which the soil is completely saturated with water, but does not include
14 water that flows in known and definite channels. (Code Civ. Proc., § 832(g).)

15 28. Groundwater Dependent Ecosystem (GDE) – Ecological communities or
16 species that depend on Groundwater emerging from aquifers or on Groundwater occurring near
17 the ground surface. (Cal. Code Regs., tit. 23, § 351(m).)

18 29. Groundwater Management Plan (GMP) – The plan, attached to this
19 Judgment as Exhibit “1,” which, together with the Judgment, is intended to implement the
20 Physical Solution for the Basin, satisfy the substantive objectives of SGMA, and serve as an
21 alternative to a GSP under SGMA following approval by DWR, as authorized by Water Code
22 sections 10733.6 and 10737.4.

23 30. GSA – Groundwater Sustainability Agency as defined by Water Code
24 section 10721(j).

25 31. GSP – Groundwater Sustainability Plan as defined by Water Code section
26 10721(k).

27 32. Lease – A transfer of Annual Allocation or Carryover for one Water Year
28 or for several Water Years, as set forth in a written lease agreement.

1 33. Management Areas – The North, Central and Southern areas of the Basin,
2 as described in the GMP.

3 34. Minimum Fallowing Standards – As defined in Exhibit “3.”

4 35. Max Overproduction Limit – As defined in Section III.G(2).

5 36. Original BPA Parcel – A parcel of land listed in Exhibit “4” to which BPA
6 was originally granted.

7 37. Overdraft – The sustained cumulative Pumping of Groundwater from the
8 Basin in quantities that exceed the Basin’s Sustainable Yield.

9 38. Overproduction – Pumping by a Party in any particular Water Year in
10 excess of the sum of the Party’s Annual Allocation and any leased Annual Allocation for that
11 Water Year plus any accrued Carryover.

12 39. Overproduction Penalty Assessment – A penalty fee for Overproduction.

13 40. Party (Parties). Any Person(s) that has (have) been named and served or
14 otherwise properly joined, or has (have) become subject to this Judgment of this Court and all
15 their respective heirs, successors-in-interest and assigns.

16 41. Parties in Disagreement – As defined in Section VII (A)(1)).

17 42. Permanent Transfer – A transfer of BPA, including any portion of a Party’s
18 total BPA, which will be permanently added to the buyer’s cumulative BPA and subtracted from
19 the seller’s BPA, and when multiplied by the Pumping Percentage will establish additional
20 Annual Allocation of the buyer in each Water Year (less any water Pumped in that year by the
21 selling Party) and thereafter.

22 43. Person – Includes, but is not limited to, corporations, partnerships, trusts,
23 firms, counties, local agencies, state agencies, federal agencies, tribes, business entities,
24 individuals, and groups of individuals.

25 44. Physical Solution – The terms of this Judgment, including the GMP,
26 attached hereto as Exhibit “1,” which are intended to achieve Sustainable Groundwater
27 Management for the Basin consistent with the substantive objectives of SGMA and Article X,
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1 section 2 of the California Constitution, and which may be modified over time in compliance with
2 the procedures described herein.

3 45. Planning and Implementation Horizon – The 50-year time period over
4 which this Court determines that the Physical Solution prescribed by this Judgment will be
5 implemented to ensure that the Basin is operated within its Sustainable Yield, consistent with
6 SGMA (Wat. Code, § 10721(r).)

7 46. Pump – The process of extracting Groundwater from the Basin.

8 47. Pumper – Any Person who Pumps Groundwater from the Basin.

9 48. Pumping Assessment – Defined in Section IV.E(3).

10 49. Pumping Percentage – The percent of a Party’s BPA that is authorized to
11 be Pumped in any particular Water Year.

12 50. Rampdown – The reduction in cumulative authorized Pumping of BPA
13 imposed pursuant to the terms of this Judgment to alleviate the Overdraft of the Basin and
14 achieve Sustainable Groundwater Management and the reasonable and beneficial use of the
15 Basin’s water resources.

16 51. Rampdown Rate – The percentage reduction in cumulative authorized
17 Pumping of BPA effective across the Basin in any particular Water Year, which when subtracted
18 from 100 percent will determine the effective Pumping Percentage.

19 52. Second Five-Year Period – Water Years 2025/2026 through 2029/2030.

20 53. SGMA – The Sustainable Groundwater Management Act set forth at
21 California Water Code sections 10720 et seq.

22 54. State Park – The Anza Borrego Desert State Park.

23 55. Supermajority Vote – An affirmative vote of no less than four members of
24 the Watermaster Board.

25 56. Sustainable Groundwater Management – Management of the Basin and
26 Pumping and use of Groundwater from the Basin in a manner that can be maintained during the
27 Planning and Implementation Horizon without causing Undesirable Results, consistent with
28 SGMA (Wat. Code, § 10721(v).)

1 57. Sustainable Yield – The maximum quantity of water, calculated over a
2 base period representative of long-term conditions in the Basin that can be cumulatively Pumped
3 on an annual basis from the Basin without causing an Undesirable Result, consistent with SGMA
4 (Wat. Code, § 10721(w)).

5 58. Technical Advisory Committee – The advisory body established pursuant
6 to Section IV.G(1) of this Judgment to study technical aspects of the Basin and to issue
7 recommendations to Watermaster based on such technical study for the purpose of achieving
8 Sustainable Groundwater Management in the Basin in an effective and efficient manner,
9 consistent with the rights and obligations of the Parties established by this Judgment.

10 59. Third Five-Year Period – Water Years 2030/2031 through 2034/2035.

11 60. Undesirable Results – As defined by Water Code section 10721(x).

12 61. Water Budget – An accounting of the total Groundwater and surface water
13 entering and leaving the Basin including the changes in the amount of water stored consistent
14 with SGMA (Wat. Code, § 10721(y).)

15 62. Watermaster – The special master to this Court appointed pursuant to
16 Section IV.A of this Judgment for the purpose of executing the powers, duties, and
17 responsibilities assigned therein.

18 63. Watermaster Board – The five-member Board governing the Watermaster
19 as defined in Section IV.B.

20 64. Watermaster Budget – The budget to fund the operation and administration
21 of the Watermaster, and programs undertaken by, or on behalf of Watermaster, which will be
22 prepared annually by Watermaster consistent with the provisions of Section IV.E(3) of this
23 Judgment.

24 65. Watermaster Rules and Regulations – The rules and regulations attached as
25 Exhibit “5” as may be amended from time to time by the Watermaster consistent with the terms
26 of this Judgment.

27 66. Water Rights Restrictive Covenant – As defined in Section III.I(7).

28 67. Water Year – October 1st to September 30th. (Wat. Code, § 10721(aa).)

1 **B. Exhibits.** The following exhibits are attached to this Judgment and made a part
2 hereof.

3 **Exhibit “1”** Groundwater Management Plan

4 **Exhibit “2”** Stipulation

5 **Exhibit “3”** Minimum Fallowing Standards

6 **Exhibit “4”** Baseline Pumping Allocations

7 **Exhibit “5”** Watermaster Rules and Regulations

8 **Exhibit “6”** Water Rights Restrictive Covenant Forms

9 **Exhibit “7”** Process for Selecting Watermaster Public/Community Representative,
10 Process for Selecting Watermaster Recreational Sector Representative, and Process for Selecting
11 Watermaster Agricultural Sector Representative

12 **Exhibit “8”** Entry Agreement Form

13 **C. Construction.** Unless the context clearly requires otherwise:

- 14 1. The plural and singular forms include the other;
- 15 2. “Shall,” “will,” and “must” are each mandatory;
- 16 3. “May” is permissive;
- 17 4. “Or” is not exclusive; and
- 18 5. “Includes” and “including” are not limiting.
- 19 6. Reference to any agreement, document, instrument, or report means
- 20 such agreement, document, instrument or report as amended or modified and in effect from time
- 21 to time in accordance with the terms thereof.

22 **II. PHYSICAL AND LEGAL SETTING**

23 **A. Complexity and Scope of Action.** The physical and legal issues of this case are
24 complex. Pumping of more than ___ persons Pumping Groundwater from the Basin has been
25 ascertained. In excess of __,000 persons have been served. The Groundwater rights of the entire
26 Basin have been brought into issue and the action has been made a full in rem adjudication of
27 water rights to the Basin as to all real property owners in the Basin pursuant to Sections 830 et
28 seq. of the Code of Civil Procedure.

1 **B. Basin as Common Source of Supply.** The area of the Basin is defined by
2 Bulletin 118 issued by the Department of Water Resources and identified by Bulletin 118 as
3 Subbasin No. 7-24.01. The Groundwater within the Basin constitutes a common source of supply
4 to the Parties herein and the Borrego Springs community.

5 **C. Overdraft and Need for Physical Solution.** The Basin has been, and presently
6 is, in a condition of long-term Overdraft for a period longer than ten years consistent with Code
7 of Civil Procedure sections 832(d) and 847(a). There is presently no viable means to cure the
8 Basin's Overdraft through artificial recharge or other supply augmentation strategy under current
9 Basin conditions and cumulative average annual Pumping quantities. Therefore, it is necessary,
10 and consistent with applicable law, to implement the Physical Solution set forth in this Judgment
11 inclusive of the prescribed Rampdown over time. The Physical Solution takes into consideration
12 the unique physical and climatic conditions of the Basin, the use of water within the Basin, the
13 character and rate of return flows, the character and extent of established uses, and the current
14 lack of availability of imported water. This Court has received evidence to support its conclusion
15 that the Physical Solution appropriately balances competing economic, social, and environmental
16 considerations, and that it will result in the optimal management of the Basin consistent with
17 Article X, section 2 of the California Constitution.

18 **D. Need for Flexibility.** The Physical Solution is intended to provide flexibility and
19 adaptability to allow this Court to use existing and future technological, social, institutional, and
20 economic options to maximize reasonable and beneficial water use in the Basin.

21 **E. Determination of Sustainable Yield.** The initial Sustainable Yield is 5,700 AFY.
22 A refined and specific estimate of the Sustainable Yield shall be determined by the Watermaster
23 by January 1, 2025, and periodically updated thereafter, through the Technical Advisory
24 Committee processes described herein based on best available science including BVHM runs and
25 consideration of all sources of Basin replenishment and outflow.

26 **F. Judgment as a Basis of SGMA Compliance for the Basin.** Consistent with the
27 requirements of Water Code section 10737.8, this Court finds this approach for compliance with
28 SGMA, and the comprehensive determination of all Groundwater rights within the Basin, to be a

1 prudent, legal, and durable means to achieve Sustainable Groundwater Management within the
2 Basin as intended by SGMA. This Court further finds that the Physical Solution is consistent
3 with the mandate of Article X, section 2 of the California Constitution and California water
4 policy, generally. The Judgment defines the Groundwater rights of the Basin in a manner which
5 will equitably allocate the Basin's Groundwater supplies. Sufficient information and data are
6 known to formulate a reasonable and just allocation of existing Groundwater supplies. Such
7 Physical Solution will accelerate water-saving actions and provide flexibility and adaptability in
8 order to maximize the reasonable and beneficial use of the Basin's Groundwater and protect
9 against undue economic harm to the Borrego Springs community.

10 **G. Pumping Groundwater Only Pursuant to Judgment.** This Judgment, and the
11 Physical Solution decreed herein, addresses all Groundwater rights of the Basin. Any Pumping
12 inconsistent with this Judgment will frustrate efforts to achieve Sustainable Groundwater
13 Management and public, environmental, and economic interests in the Basin, injure the rights of
14 all Parties, and interfere with the Physical Solution. Therefore, each and every Party, its officers,
15 agents, employees, successors, and assigns, is enjoined and restrained from Pumping
16 Groundwater from the Basin except pursuant to the provisions of this Judgment. Should
17 Watermaster become aware of any unauthorized Pumping, it shall promptly bring a motion before
18 this Court to enforce the terms of this Judgment pursuant to Section IV.E(9).

19 **III. DECLARATION OF RIGHTS AND OBLIGATIONS**

20 **A. Pumping Rights.** The BPA of each Party is as set forth in **Exhibit "4."** **Exhibit**
21 **"4"** also identifies the legal parcel(s) to which the BPA attaches (excepting the BWD and
22 County) and the well(s) to which the BPA is assigned.

23 If BPA is transferred to one or more new BPA Parcels and wells pursuant to a Permanent
24 Transfer, Watermaster will update **Exhibit "4"** to identify the reallocated BPA to each Party to
25 the transfer, new BPA Parcel(s) and well(s) (excepting the BWD and County with respect to BPA
26 Parcel) to which the BPA is assigned and include an updated version of **Exhibit "4"** as an
27 attachment to its Annual Report. No Party may commence Pumping Groundwater pursuant to
28 BPA following October 1, 2020, until and unless (i) the Party has paid the full assessment

1 assessed by Watermaster to fund the Watermaster through the first permanent Pumping
2 Assessment in December 2021, and (ii) the Party is compliant with all orders of the Court,
3 including without limitation, payment of all assessments or other monies owed to Watermaster or
4 any other Party(ies) pursuant to order of the Court.

5 The BPA represents the allowed total annual Pumping by each Party prior to the
6 commencement of the 2020-2021 Water Year. The BPA will be subject to the Rampdown
7 commencing with the 2020-2021 Water Year. Through operation of Rampdown and the resulting
8 Pumping Percentage then in effect, each Party's allowed Pumping for each Water Year will be
9 limited to a percentage of their BPA as reflected within their Annual Allocation. Pumping of
10 Groundwater used to fight fires shall be exempt from Pumping limitations and associated
11 assessments.

12 All water credits issued by BWD and/or the County pursuant to the BWD's Demand
13 Offset Mitigation Water Credits Policy (revised May 19, 2015) have been converted to BPA and
14 are included in Exhibit "4", unless otherwise agreed to by the water credit holder and BWD and
15 approved by the Court. To the extent a former water credit holder no longer owns real property
16 overlying the Basin at the time of this Judgment, the associated BPA is held in abeyance, in the
17 name of such owner until the BPA is attached to a specific legal parcel pursuant to the Judgment.

18 The basis for the amount of each Party's BPA set forth in Exhibit "4" to the Judgment is
19 as follows: (i) for the BWD, a compromise amount agreed upon among the Parties that is based
20 on metered data and water credit conversion; (ii) for Parties that previously held water credits
21 pursuant to the BWD's Demand Offset Mitigation Water Credits Policy (revised May 19, 2015),
22 the amount of BPA calculated based on a conversation factor taking into account water credit
23 type, formerly irrigated acreage, and relevant crop types of the formerly irrigated agricultural
24 acreage; and (iii) for all other Parties granted BPA, the amount of BPA specified in a final letter
25 addressed to each Party from Jim Bennett, Water Resources Manager for the County's Planning
26 and Development Services, which the GSA intended to allocate to each of those Parties pursuant
27 to the previously anticipated GSP and that is based on metered data or irrigated acreage calculated
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1 by the GSA for relevant crop types.¹ This Court acknowledges that the individual BPA
2 established for each Party reflects the settlement and compromise of the Parties respecting water
3 rights among them subject to the terms of this Judgment. Such water rights are a form of property
4 right, subject to rights and restrictions pursuant to the reasonable and beneficial use doctrine set
5 forth in Article X, section 2 of the California Constitution. The allocation of BPA among the
6 Parties reflects a compromise of all water rights of all Parties to this action, which the Court finds
7 to be equitable and consistent with applicable law, including but not limited to Article X, section
8 2 of the California Constitution. All BPA are of equal priority.

9 It is therefore consistent with constitutional protections afforded to the Parties,
10 California's common law, and the interest of legal certainty that the BPA adjudicated cannot be
11 adjusted following the entry of this Judgment. Sustainable Groundwater Management of the
12 Basin will be achieved through the Physical Solution prescribed herein inclusive of the necessary
13 Rampdown to alleviate the current Overdraft.

14 **B. Carryover.** Unused Annual Allocation may be carried over for use in subsequent
15 Water Years as Carryover if the Pumping Assessment is paid in the current year, subject to
16 restrictions on the amount or duration of Carryover specified below. The initial maximum
17 quantity of Carryover that a Pumper can accrue is two times the amount of BPA then held by that
18 Pumper. Carryover will be re-evaluated by January 1, 2025, by Watermaster, with consultation
19 of the Technical Advisory Committee. If Watermaster determines that it is necessary to adjust
20 the amount of individual Carryover or the duration that Carryover may be held within the Basin
21 to prevent Undesirable Results, the Watermaster shall so advise this Court through a noticed
22 motion for a subsequent order amending this Judgment. Once Carryover is accrued pursuant to
23 rules then in effect, the rules may not be changed as to the accrued Carryover (e.g., the rate or
24 amount of loss may not be modified) because the Groundwater reflected in Carryover is treated,
25 for purposes of Basin-wide production accounting, as if already Pumped and used. Accordingly,

26
27
28 ¹Certain Parties are granted BPA based on such County of San Diego letters and based on
previously-held water credits. In those circumstances, the amount of the Party's BPA specified in
Exhibit 4 reflects a combination of the BPA resulting from both bases.

1 any Basin-wide need for reduced Pumping will be achieved through additional Rampdown of
2 BPA rather than reduction of a Pumper's existing Carryover.

3 **C. Technical Approach to Basin Management.** The Physical Solution, including
4 this Judgment and the GMP attached as **Exhibit "1,"** will serve as the technical approach for
5 Basin management, subject to modification as appropriate for Adaptive Management by order of
6 this Court pursuant to this Court's continuing jurisdiction under Section VII, including periodic
7 updates of Sustainable Yield through the processes described herein.

8 **D. Rights of State Park and Borrego Elementary School.**

9 1. In lieu of a grant of BPA to the State Park, the State Park will be
10 authorized to Pump an annual maximum of 20 acre-feet of Groundwater for their uses. Such
11 authorization is distinct from the Pumping rights of other Pumpers pursuant to BPA. The State
12 Park's authorized Pumping pursuant to this Section III.D shall not be subject to Rampdown, and
13 also shall not be eligible for Carryover, Lease, or subsequent transfer, and will be subject to all
14 other relevant provisions of this Judgment including but not limited to payment of an assessment
15 on each acre-foot of water pumped that is equivalent to the Pumping Assessments charged to
16 Party's Pumping BPA, consistent with Section IV.E(4).

17 2. In lieu of a grant of BPA to Borrego Elementary School, the Borrego
18 Springs Unified School District will be authorized to Pump an annual maximum of 22 acre-feet of
19 Groundwater for exclusive use at Borrego Elementary School. Such authorization is distinct from
20 the Pumping rights of other Pumpers pursuant to BPA. Borrego Springs Unified School
21 District's authorized Pumping pursuant to this Section III.D shall not be subject to Rampdown,
22 and also shall not be eligible for Carryover, Lease, or subsequent transfer, and will be subject to
23 all other relevant provisions of this Judgment including but not limited to payment of an
24 assessment on each acre-foot of water pumped that is equivalent to the Pumping Assessments
25 charged to Party's Pumping BPA, consistent with Section IV.E(4).

26 **E. Initial Rampdown.** The Rampdown schedule through the 2024-2025 Water Year
27 is as follows:

28 Water Year Annual Rampdown Schedule Cumulative Rampdown

1	2020-2021	5% reduction of BPA	5%
2	2021-2022	5% reduction of BPA	10%
3	2022-2023	5% reduction of BPA	15%
4	2023-2024	5% reduction of BPA	20%
5	2024-2025	5% reduction of BPA	25%

6
7 **F. Process for Determining Sustainable Yield and Implementation of**
8 **Subsequent Rampdown.** The amount and pace of Rampdown for the Water Years following the
9 2024-2025 Water Year (i.e., commencing with the 2025-2026 Water Year) will be determined
10 through the following process:

11 1. By June 1, 2021, the Watermaster shall seek agreement with the Technical
12 Advisory Committee on a scope of work and budget for technical work through September 30,
13 2023. Any disputes as to scope or budget will be resolved on hearing and order pursuant to
14 Section VII prior to the commencement of the Water Year beginning October 1, 2021. The
15 choice to perform specific technical tasks will be informed by considering the value and
16 importance of the work to attain a better understanding of the Basin and the goal of advancing
17 Sustainable Groundwater Management in comparison to the cost of the work.

18 2. During the first four Water Years (2020-2021 to 2023-2024), the
19 Watermaster will collect additional data and refine the BVHM, using model runs to update the
20 determination of Sustainable Yield in collaboration with the Technical Advisory Committee.

21 3. By January 1, 2025, the Watermaster will, following receipt of input and
22 recommendations from the Technical Advisory Committee, revise the determination of
23 Sustainable Yield for Water Years 2025/2026 through 2029/2030 (the “Second Five-Year
24 Period”). The revised determination of Sustainable Yield will consider all sources of
25 replenishment, including return flows and underflows, and all outflows from the Basin, and will
26 consider, among other data, information derived from updated runs of the BVHM. Any
27 disagreement with Watermaster’s determination may be appealed to this Court for review, subject
28 to the provisions of Section VII. The revised estimate of Sustainable Yield will determine the
Rampdown Rate for the Second Five-Year Period as provided in Section III.F.5 of this Judgment.

1 4. If the revised estimate of Sustainable Yield remains at 5,700, AFY the
2 Rampdown rate will continue at five percent per year for the Second Five-Year Period, thus
3 achieving a cumulative Basin-wide Rampdown of 50 percent by Water Year 2029-2030 (“2030
4 Target”).

5 5. If the revised estimate of Sustainable Yield for the Second Five-Year
6 Period exceeds or falls below 5,700 AFY, the Rampdown Rate will be reduced or increased, and
7 the 2030 Target will be increased or reduced, proportional to the percentage that the revised
8 estimate of Sustainable Yield exceeds or falls below 5,700 AFY, thus achieving a cumulative
9 quantity of all Pumpers’ Annual Allocation equal to the mid-point between the revised estimate
10 of Sustainable Yield and the cumulative quantity of all Pumper’s BPA by Water Year 2029-2030.

11 6. By January 1, 2025, the Watermaster will also determine a scope of work
12 and budget for further technical work through September 30, 2029. Any disagreement with
13 Watermaster’s determination may be appealed to this Court for review, subject to the provisions
14 of Section VII.

15 7. By January 1, 2030, the Watermaster will, following receipt of input and
16 recommendations from the Technical Advisory Committee, determine the revised estimate of
17 Sustainable Yield for Water Years 2030/2031 through 2034/2035 (the “Third Five-Year Period”).
18 The revised determination of Sustainable Yield will consider all sources of replenishment,
19 including return flows and underflows, and all outflows from the Basin, and will consider, among
20 other data, information derived from updated runs of the BVHM. Any disagreement with
21 Watermaster’s determination may be appealed to this Court for review, subject to the provisions
22 of Section VII. The revised estimate of Sustainable Yield will determine the Rampdown Rate for
23 the Third Five-Year Period as described in Section III.F(8) of this Judgment.

24 8. The annual Rampdown Rate for each Water Year of the Third Five-Year
25 Period will be calculated to reduce the then cumulative allowed Pumping (i.e., cumulative Annual
26 Allocation in effect for Water Year 2029-2030) over 10 years to equal the revised determination
27 of Sustainable Yield by Water Year 2039-2040. Thus, the annual Rampdown Rate will be
28 established by dividing the necessary ten-year cumulative Rampdown by ten.

1 9. By January 1, 2030, the Watermaster will also determine a scope of work
2 and budget for further technical work through September 30, 2034. Any disagreement with
3 Watermaster's determination may be appealed to this Court for review, subject to the provisions
4 of Section VII.

5 10. By January 1, 2035, the Watermaster will, following receipt of input and
6 recommendations from the Technical Advisory Committee, determine the revised estimate of
7 Sustainable Yield for Water Years 2035/2036 through 2039/2040 (the "Fourth Five-Year
8 Period"). The revised determination of Sustainable Yield will consider all sources of
9 replenishment, including return flows and underflows, and all outflows from the Basin, and will
10 consider, among other data, information derived from updated runs of the BVHM. Any
11 disagreement with Watermaster's determination may be appealed to this Court for review, subject
12 to the provisions of Section VII(A). The revised estimate of Sustainable Yield will determine the
13 Rampdown Rate for the Fourth Five-Year Period as described in Section III.F(11) of this
14 Judgment.

15 11. The annual Rampdown Rate for each Water Year of the Fourth Five-Year
16 Period will be calculated to reduce the then cumulative allowed Pumping (i.e., cumulative Annual
17 Allocation in effect for Water Year 2034-2035) over five years to equal the revised determination
18 of Sustainable Yield by Water Year 2039-2040. Thus, the annual Rampdown Rate will be
19 established by dividing the necessary five-year cumulative Rampdown by five.

20 12. Notwithstanding the Rampdown schedule described herein, this Court,
21 pursuant to motion of any Party or sua sponte, may adjust the rate of Rampdown up or down for
22 any 5-year period or subdivision thereof, upon a finding that an adjustment to the Rampdown
23 Rate is appropriate, and taking into account the limitations on Pumping necessary to avoid an
24 Undesirable Result.

25 **G. Overproduction.** This Court finds that it is appropriate to afford (i) reasonable
26 time and accommodation to allow the Parties to adjust to the initiation of Pumping limitations
27 under this Judgment during the initial Water Years, and (ii) reasonable flexibility to allow a Party
28 that has overproduced its Annual Allocation in a particular Water Year to cover the

1 Overproduction during the next Water Year. Therefore, the following Overproduction rules
2 apply:

3 1. Overproduction up to the Max Overproduction Limit (defined below), must
4 be covered within one year of the Overproduction, either by using less allocation (under-Pumping
5 the allowed Annual Allocation or applying Carryover) in the subsequent Water Year or by Lease
6 or Permanent Transfer from another Party. If not covered by under-Pumping, Carryover, Lease,
7 or Permanent Transfer in the subsequent Water Year, the Party will be assessed an
8 Overproduction Penalty Assessment. In calculating Overproduction, any Carryover will be
9 applied first to the Party's production, then any Groundwater Pumped pursuant to a Lease, and
10 then the Party's Annual Allocation, so that Overproduction does not occur until the Party has
11 exceeded the sum of its Carryover, Leased Annual Allocation/Carryover, and its Annual
12 Allocation. The first Groundwater produced by a Party during any Water Year will be deemed to
13 be an exercise of any Carryover.

14 2. During the first three Water Years (2020-2021 through 2022-2023; Water
15 Years 1-3), no Party will be subject to an immediate Overproduction Penalty Assessment so long
16 as such Party's total cumulative Overproduction in those Water Years does not exceed 20 percent
17 of the Party's total cumulative Annual Allocation for those Water Years ("Max Overproduction
18 Limit"). Any Party that engages in Overproduction in any of Water Years 1-3 that does not
19 exceed the Max Overproduction Limit will be notified by the Watermaster of the amount of
20 Overproduction annually during Water Years 1-3 following the end of Water Year. The Party
21 engaging in Overproduction shall cover the cumulative quantity of its Overproduction occurring
22 in Water Years 1-3 by the end of Water Year 5 (2024-2025) through either Carryover, reduced
23 production below authorized Annual Allocation in Water Years 4 (2023-2024) and 5 (2024-
24 2025), or through Lease or Permanent Transfer. If the Party has not covered its Overproduction
25 from Water Years 1-3 by the end of Water Year 5 (September 30, 2025), an Overproduction
26 Penalty Assessment will be assessed.

27 3. Any Party that engages in Overproduction in any of Water Years 1-3 that
28 does exceed the Max Overproduction Limit will be assessed an Overproduction Penalty

1 Assessment for the Overproduction in excess of the Max Overproduction Limit unless such
2 Overproduction in excess of the Max Overproduction Limit is covered and cured through under-
3 Pumping, Carryover, Lease, or Permanent Transfer for all such Overproduction during the
4 subsequent Water Year.

5 4. The Watermaster has the authority to enforce the terms of this Judgment,
6 including the Rules and Regulations and Physical Solution, which authority includes at a
7 minimum, the enforcement authority granted to a GSA under Water Code section 10732.
8 Notwithstanding the monetary limits in Water Code section 10732(a)(1), the Watermaster has
9 authority to establish an Overproduction Penalty Assessment, which will be no less than \$500 per
10 acre-foot. All Overproduction Penalty Assessments will be used by Watermaster to fund either
11 (i) acquisition of Annual Allocation to offset the Overproduction or (ii) its Watermaster Budget
12 and thereby reduce the amount of funds that must be raised from the annual Pumping
13 Assessment. Failure to pay the Overproduction Penalty Assessments will incur further
14 enforcement terms, as permitted by law, including but not limited to the right of the Watermaster
15 to seek injunctive relief and the right to lien real property for unpaid assessments.

16 **H. De Minimis Pumpers.** This Court finds that production of Groundwater by any
17 person or entity owning real property overlying the Basin who is a De Minimis Pumper at the
18 time of filing of the Complaint is not likely to significantly contribute to Undesirable Results to
19 the Basin or any interest related to the Basin. Accordingly, this Judgment is not intended to
20 regulate a Party that was Pumping Groundwater as a De Minimis Pumper at the time of filing of
21 the Complaint, provided the Pumping by such De Minimis Pumper remains within the two acre
22 foot limitations established in this Judgment and provided that such De Minimis Pumper does not
23 seek to transfer their Pumping to another real property owned by another Person. All persons
24 who are not Pumping as of the date of filing the Complaint who seek to initiate Pumping as a De
25 Minimis Pumper in the future shall submit an application to the Watermaster and the Watermaster
26 shall determine whether the proposed Pumping will contribute to or threaten to contribute to
27 Undesirable Results or other interest related to the Basin, and the application shall be denied if it
28 contributes to or threatens to contribute to Undesirable Results or other interest related to the

1 Basin. Any such Watermaster determination may be appealed to the Court pursuant to the
2 procedures described in Section VII, below. Notwithstanding any of the provisions of this
3 Section III(H), to the extent this Court determines in the future that Pumping by De Minimis
4 Pumpers has significantly contributed to or threatens to significantly contribute to Undesirable
5 Results, this Court may regulate Pumping by De Minimis Pumpers as it deems prudent pursuant
6 to its reserved jurisdiction provided in Section VII.

7 **I. BPA Transfer.** In the interest of advancing the effective and efficient
8 management of the Basin and the policy of maximizing the beneficial use of the Basin's
9 Groundwater, consistent with Article X, section 2 of the California Constitution, all BPA may be
10 Permanently Transferred or Leased, subject to the provisions of this Section III.I. Unless
11 otherwise noted, all provisions within this Section III.I will be applicable to both Permanent
12 Transfers and Leases.

13 1. **Good Standing and Intervention Requirements.** Permanent Transfers and
14 Leases may only be completed in accordance with these rules by Parties to this Judgment in good
15 standing (meaning both buyer and seller have paid all applicable Pump assessments, fees, charges
16 or will do so prior to completion of the transfer, and are otherwise in compliance with this
17 Judgment). A transferee who is not already a Party must intervene as a Party as a condition of
18 completing any Lease or Permanent Transfer.

19 2. **Anti-Speculation Provision.** A buyer of BPA pursuant to a Permanent
20 Transfer must own at least one acre overlying the Basin for every five acre-feet of BPA
21 transferred to the buyer (the "Eligibility Requirement"). The "Anti-Speculation" provisions of
22 this paragraph do not apply to BWD, the County, or an owner of an Original BPA Parcel so long
23 as either (i) the BPA owner retains the same or greater quantity of acreage in proportion to its
24 Original BPA or (ii) the BPA owner does not hold an amount of Annual Allocation in excess of
25 the quantity of its originally granted BPA. As a condition of completing a Permanent Transfer,
26 the Watermaster may demand that a BPA buyer (excepting BWD, the County and an owner of an
27 Original BPA Parcel satisfying the criteria specified above) submit a deed reflecting the buyer's
28 ownership in fee duly recorded, or Court order evidencing ownership by the buyer, of a legal

1 parcel or parcels overlying the Basin of sufficient acreage to satisfy the buyer's satisfaction of the
2 Eligibility Requirement (the "Eligibility Proof").

3 a. For purposes of establishing the Eligibility Proof, a buyer may
4 show the requisite ownership of a legal parcel or parcels overlying the Basin to satisfy the
5 Eligibility Requirement held in the name of the buyer, a subsidiary of the buyer where the buyer
6 possesses at least a 51% ownership interest, or an affiliate of the buyer that has at least 51%
7 common ownership with the buyer.

8 3. Eligibility Violation. In the event that the Watermaster determines that a
9 buyer has not satisfied the Eligibility Requirement (an "Eligibility Violation"), the Watermaster
10 will provide written notice of such Eligibility Violation to the buyer and such written notice will
11 specify a period of not more than one year to cure such Eligibility Violation ("Cure Period"). To
12 thereafter cure such Eligibility Violation, the buyer must submit the Eligibility Proof within the
13 Cure Period. If the buyer fails to so cure the Eligibility Violation within the Cure Period, the
14 BPA or that portion of the BPA to be transferred which is in excess of the Eligibility Requirement
15 following the end of the Cure Period, whichever quantity is less, will be returned to the seller or
16 lessor if required by the terms of the Permanent Transfer, or else forfeited by the buyer and such
17 BPA will be permanently retired for the benefit of the Basin as a whole. No forfeiture of BPA or
18 any portion thereof will be valid except by order of this Court upon noticed motion and after
19 hearing.

20 4. Transfer Records. Except for the BWD, a mutual water company, and the
21 County, upon completion of the Permanent Transfer, the BPA will be assigned to the buyer's
22 Parcel(s) on the records of the Watermaster.

23 5. Restrictions on Transfers. In order to protect the Basin and protect against
24 Undesirable Results, the Watermaster, with input from the Technical Advisory Committee, may
25 restrict Permanent Transfers and Leases to specific areas of the Basin based on reasonable,
26 evidenced-based concern that the Permanent Transfer or Lease will cause or exacerbate
27 Undesirable Results, and then only in a manner that is equitable to all affected Pumpers.
28

1 6. BPA Transfers with Land Conveyances. With respect to a conveyance of a
2 fee interest to a BPA Parcel or any portion thereof, the associated BPA will automatically transfer
3 to the successor of said BPA Parcel unless: (i) the deed, or comparable instrument, conveying
4 such BPA Parcel expressly excludes the BPA from the conveyance and provides that the BPA is
5 retained by the conveying Party; and (ii) the conveying owner (grantor) records a “water rights
6 restrictive covenant” against the parcel being conveyed with the San Diego County Recorder in a
7 form substantially similar to the applicable example provided in Exhibit “6” to this Judgment
8 (“Water Rights Restrictive Covenant”) specifying the amount of BPA retained by the grantor (all
9 or a portion) and subsequently delivers a copy of the recorded Water Rights Restrictive Covenant
10 to the Watermaster. Such conveyed parcel will thereafter only be benefited by any residual BPA
11 not retained by the grantor, and if all BPA is retained by the grantor, the conveyed parcel will
12 cease to be benefited by BPA, and thus will no longer be a BPA Parcel, unless BPA is
13 subsequently acquired and designated for the benefit of such parcel through a Lease or Permanent
14 Transfer. Such Water Rights Restrictive Covenant must include a covenant prohibiting the future
15 Pumping of Groundwater from the conveyed parcel in excess of any residual BPA not retained by
16 the grantor, unless BPA is subsequently acquired for the benefit of that parcel. Within thirty days
17 of the conveyance of a BPA Parcel with assigned BPA, the successor in interest to such BPA
18 Parcel shall provide written notice to the Watermaster of the transfer of the BPA Parcel, and in
19 the event the grantor has retained any BPA, a copy of the Water Rights Restrictive Covenant
20 specifying the amount of BPA retained by the grantor. If grantor has retained any BPA consistent
21 with the terms of this Section, the Water Rights Restrictive Covenant must identify the parcel(s)
22 and wells(s) to which the retained BPA is to be subsequently assigned by the grantor.

23 7. Compliance with Watermaster Review and for Permanent Transfers.
24 Except for a Permanent Transfer of BPA concurrently with the transfer of a BPA Parcel or a
25 Permanent Transfer of a Party’s BPA to other overlying parcels owned by that Party or its
26 affiliates, all Permanent Transfers must be reviewed and approved by Watermaster prior to
27 closing to consider the means by which Groundwater use will be permanently reduced to
28

1 facilitate the Permanent Transfer of BPA and to confirm satisfaction of the Eligibility
2 Requirements (Sections III.I(2) above).

3 8. Permanent Transfer of BPA Separate from Parcel Transfer. If a Party's
4 BPA is Permanently Transferred from a BPA Parcel separately from a conveyance of a fee
5 interest to the BPA Parcel, for the Permanent Transfer to become effective, (i) the Parties to the
6 Permanent Transfer must comply with the following standards set forth in Exhibit "3" and (ii)
7 the Seller must record a Water Rights Restrictive Covenant against the BPA Parcel with the San
8 Diego County Recorder and subsequently deliver a copy of the recorded Water Rights Restrictive
9 Covenant to the Watermaster. The Water Rights Restrictive Covenant must specify the amount
10 of BPA transferred from the BPA Parcel, include a covenant prohibiting future Pumping from the
11 parcel from which the BPA is transferred inconsistent with the Permanent Transfer or the terms of
12 this Judgment, and identify the parcel(s) and wells(s) to which the transferred BPA is to be
13 assigned. If all BPA is transferred from the parcel, as specified in the Water Rights Restrictive
14 Covenant, the parcel will cease to be benefited by BPA, and thus will no longer be a BPA Parcel,
15 unless BPA is subsequently acquired and designated for the benefit of such parcel through a
16 Lease or Permanent Transfer.

17 9. Required Notices to Watermaster.

18 a. Leases. A Lease will only be effective after a written notice has
19 been received by Watermaster, signed by both Parties to the Lease, specifying the amount of
20 Annual Allocation leased, the term of the Lease, the well(s) to which the BPA is assigned during
21 the term of the Lease, and if the BPA is then benefitted by Carryover, the amount of any
22 Carryover leased to the lessee as a component of the Lease. If the Lease is for one or more Water
23 Years other than the then-current Water Year, the notice will specify the BPA that correlates to
24 the Lease in the future Water Years subject to the Lease (i.e., all Water Years subject to the Lease
25 other than the current Water Year), and the amount of the Lease of Annual Allocation for such
26 future Water Years will be determined by multiplying the amount of BPA to which the Lease
27 correlates by the Pumping Percentage applicable to each of the future Water Years during the
28 Lease.

1 b. Permanent Transfers. A Permanent Transfer will only be effective
2 after a written notice has been received by Watermaster, signed by both Parties to the Permanent
3 Transfer, specifying the amount of BPA permanently transferred; the new BPA Parcel and well(s)
4 to which the transferred BPA is to be assigned (excepting the BWD and County with respect to
5 BPA Parcel); and certifying that the conditions in Sections 6 and 7 above have been satisfied;
6 and, except for a transfer of BPA concurrently with the transfer of fee title to an Original BPA
7 Parcel or a transfer of a Party's BPA to other overlying parcels owned by that Party (see
8 Subsection D.5), no Permanent Transfer will be effective until the Seller has obtained approval
9 from Watermaster for the sale of the BPA following Watermaster review.

10 c. Transfers of BPA Excluded from Conveyance of Parcel. Upon
11 written notice to the Watermaster, a Party may transfer all or any portion of that Party's BPA
12 excluded from the conveyance in accordance with Section III.I(9)(b) to any other parcel or
13 portion thereof overlying the Basin owned by that Party or its affiliate provided that such notice
14 identifies the BPA Parcel(s) and well(s) to which the BPA is to be assigned.

15 10. Transfer Costs. All costs of transfers (including costs of any fallowing
16 remediation) will be borne by the Parties to the transfer transaction, not by Pumping Assessments.
17 Likewise, enforcement costs will be borne by the Parties to the transfer with the ability for the
18 prevailing party to recoup its legal costs from the non-prevailing party. If the Watermaster is the
19 prevailing party in a Watermaster enforcement action, the Watermaster may recoup its legal costs
20 from the non-prevailing party. If the Watermaster is not the prevailing party in a Watermaster
21 enforcement action, the Watermaster will provide for the payment of the costs and expenses of
22 the Watermaster from the Watermaster Budget.

23 11. Temporary Assignments. Temporary assignment of Annual Allocation (for
24 up to six months of use, which period may be extended for cause upon application to and
25 approval of the Watermaster) will be allowed for well sharing during well maintenance and
26 emergencies, which will be documented by the Parties to the well sharing and a notice signed by
27 both Parties submitted to the Watermaster within 30 days of use for accounting on Watermaster
28

1 records identifying the nature of the emergency necessitating the temporary assignment, and the
2 BPA Parcels and wells to which the Annual Allocation is assigned.

3 **J. Fallowing Standards**

4 1. Applicable Standards. For the purposes of avoiding blight associated with
5 dead agricultural vegetation and to reduce potential air quality and public health impacts from
6 wind-blown dust, if all or any portion of BPA is to be permanently transferred to another Party by
7 way of permanently fallowing any portion of a Party's irrigated tree crop, the portion permanently
8 retired from irrigation will follow any and all County standards as may be promulgated under the
9 County's land use authority, including any standards imposed under any applicable CEQA
10 document, as may apply. Provided, however, that the Minimum Fallowing Standards described
11 in **Exhibit "3"** shall serve as the minimum fallowing standards, as supplemented by any County-
12 imposed fallowing standards.

13 2. Compliance with Fallowing Standards. Where practicable, fallowing shall
14 be undertaken prior to the consummation of a permanent transfer. Where pre-transaction
15 fallowing is not practicable, one of the following methods shall be utilized to ensure fallowing is
16 completed within 12 months of the transaction: (1) deposit with the Watermaster 120% of the
17 funds needed to complete the fallowing; (2) securing of a security or performance bond in favor
18 of the Watermaster in an amount equal to 120% of the anticipated cost of the fallowing; or (3)
19 establishment of an escrow for the transaction with a reputable title company with a holdback
20 from the purchase price equal to 120% of the anticipated cost of fallowing payable to the
21 Watermaster if fallowing is not timely completed within 12 months of the transaction. The
22 Watermaster shall be charged with certifying that fallowing standards have been met. Upon such
23 certification, retained funds held by escrow or Watermaster shall be promptly refunded to the
24 appropriate Party or Parties and/or security/performance bonds shall be released. The Party
25 responsible for the costs of complying with the fallowing standards, including the cost of security,
26 are to be negotiated between the Parties to the transfer.

27 3. Fallowing Standards Applicable to Multi-Year Leases. To the extent the
28 Watermaster determines that a multi-year Lease of BPA has resulted in significant amounts of

1 dead trees or other crops on the land of the lessor Party and that the following standards described
2 in Section III.J(1). have been disregarded or not met for a period of at least 24 months, the
3 Watermaster shall have authority to seek a Court order to compel fallowing or impose a monetary
4 assessment to undertake fallowing. Watermaster will be entitled to recover its costs and
5 attorney's fees from the lessor Party should Watermaster be a prevailing Party in such action.
6 The provisions of this Subsection III.J(3) shall not apply to cover crops described in the
7 Minimum Fallowing Standards attached as Exhibit "3" nor customary farming practices on the
8 lessor property.

9 4. Fallowing and Water Credits. Annual Allocation associated with BPA that
10 is granted in relation to a conversion of water credits may not be exercised (i.e., Groundwater
11 may not be Pumped pursuant to the BPA) nor the underlying BPA transferred until and unless (a)
12 the fallowing standards set forth in this Judgment have been satisfied for the parcel(s) from which
13 such water credits were generated, as approved by Watermaster, and (b) a restrictive covenant
14 limiting Groundwater production on such parcel(s) was recorded as part of the water credits
15 program, and if that was not recorded, then a new Water Rights Restrictive Covenant is recorded
16 against such parcel(s). Within six (6) months of its formation, the Watermaster shall review the
17 state of satisfaction of requirements (a) and (b) and issue a status letter to each applicable BPA
18 holder informing them that these requirements have been met or what further action is necessary
19 to satisfy these requirements. When the requirements are met, the BPA holder shall then update,
20 if needed, the parcels (identified by assessor parcel numbers) and well(s) (identified by state well
21 number(s)) to which the BPA is assigned and request necessary changes to Exhibit "4".
22 Notwithstanding the foregoing, if the BPA holder meets the requirements of this Section J(4)
23 upon or after receipt of the transfer status letter, such BPA holder will have all rights and be
24 burdened with all responsibilities attendant to the BPA, including Carryover accrual, retroactively
25 to the date of this Judgment.

26 **K. Available Groundwater Storage Capacity**

27 There exists in the Basin a substantial amount of available Groundwater storage capacity which is
28 not utilized for storage or regulation of Groundwater. Such storage capacity can appropriately be

1 utilized for storage and conjunctive use of water that may in the future be imported to the Basin.
2 It is essential that such storage capacity utilization be undertaken only under Watermaster control
3 and regulation, in order to protect the integrity of the Basin, its Groundwater and any water
4 imported to the Basin. Accordingly, any Person who wishes to store and Pump imported water in
5 the Basin must do so pursuant to a storage agreement with Watermaster. All storage and recovery
6 of imported water in the Basin, and all export of Groundwater Pumped from the Basin for use on
7 lands that do not overlie the Basin, is enjoined and restrained except pursuant to agreement with
8 Watermaster. In any future allocation of Basin storage capacity by Watermaster, the needs and
9 requirements of lands overlying the Basin and of the holders of BPA shall have priority and
10 preference over storage for export.

11 **L. Changes in Point of Extraction and New Wells.**

12 Parties may change the point of Pumping on their real property for any BPA or portion thereof to
13 another point of Pumping on the same Party's real property, whether by County-permitted new
14 wells or replacement wells, so long as such change of point of Pumping does not cause
15 Undesirable Results or interfere with an existing well of another Party.

16 **IV. BASIN ADMINISTRATION**

17 **A. Watermaster.** To assist this Court in the administration of this Judgment, this
18 Court establishes a Watermaster. Watermaster shall administer and enforce the provisions of this
19 Judgment (including the administration of the Physical Solution) and any subsequent instructions
20 or orders of this Court. Watermaster shall, in carrying out its duties, powers and responsibilities
21 herein, act in an impartial manner without favor or prejudice to any Pumper or Party.

22 **B. Watermaster Board**

23 **1. Composition and Selection.** The Watermaster Board will be comprised of
24 five members, with each member having one vote, as follows: one representative and one
25 alternate representing the BWD; one representative and one alternate representing the County;
26 one representative and one alternate representing the agricultural sector Parties; one
27 representative and one alternate representing the recreational sector Parties; and one
28 public/community representative and one alternate. The Parties within the respective agricultural

1 and recreational sectors, and the process for selecting the respective agricultural, recreational, and
2 public/community representatives are specified in Exhibit "7." Any Watermaster Board member
3 or alternate may be removed by the Court for cause. Any vacancy on the Watermaster Board
4 shall be filled by the same procedure used in the appointment of the vacant seat.

5 2. Decisions of the Watermaster. Except for decisions concerning a subject
6 matter for which a Supermajority Vote is required for approval, as specified in Section IV.B(3)
7 below, a decision agreed to by a majority of the Watermaster Board made when a quorum is
8 present will be a decision of the Watermaster; provided, however, that no action of the
9 Watermaster Board shall become effective without the affirmative vote of at least three members
10 of the Watermaster Board. A quorum constitutes three members of the Board. All Watermaster
11 decisions are final when made and may be appealed to this Court pursuant to Section VII.

12 3. Supermajority Subject Matters. Decisions by the Watermaster Board
13 concerning the following subject matters must receive a Supermajority Vote for approval

- 14 a. Decisions concerning the Watermaster Budget inclusive of the
15 Pumping Assessments;
16 b. Any change in the Watermaster Budget resulting in an increase of
17 more than \$50,000;
18 c. Establishment of the rate of Overproduction Penalty Assessments;
19 d. Approval of capital projects;
20 e. Borrowing of funds; and
21 f. Purchasing or disposing of real property.

22 4. Watermaster Board Meetings. All Watermaster Board meetings and
23 hearings must be conducted in substantial accordance with the requirements of the California
24 open meeting laws under Government Code sections 54950 et seq., otherwise known as the
25 "Brown Act". Provided, however, that notwithstanding Government Code, section 54953(b)(3),
26 at least two of the Watermaster Board members shall participate in Board meetings from
27 locations overlying the Basin. Further, because the Watermaster Board acts under the authority
28 of the Superior Court and does not qualify as a "local agency" under Government Code section

1 54951, any and all challenges to Brown Act compliance by the Watermaster Board may be heard
2 only by the Superior Court Judge with continuing jurisdiction over the Judgment in the
3 underlying action, in compliance with the requirements of the Judgment. Regular Watermaster
4 meetings must be noticed with an agenda and supporting materials made available to the public at
5 least three days prior to the meeting, and shall be open to the public in a public location that
6 overlies the Basin. Meeting minutes must be taken of all Watermaster Board meetings, a copy of
7 which must be furnished to any member of the public requesting such minutes.

8 **C. Watermaster Staff.** Watermaster may hire employees or contractors as needed,
9 which may include without limitation (a) one or more technical advisors to provide input to the
10 Technical Advisory Committee, Watermaster staff and the Watermaster Board, (b) a person to
11 prepare meeting notes, prepare an Annual Report to this Court, and administer this Judgment and
12 (c) an attorney to advise and represent the Watermaster. In order to avoid a potential conflict of
13 interest, the Watermaster Technical Consultant (interim or otherwise) must be independent (not
14 under contract with any Party) and selected by the Watermaster with input from the Technical
15 Advisory Committee through an arms-length RFP process, unless otherwise agreed to by a
16 Supermajority Vote of the Watermaster. Any technical advisor, attorney, executive director, or
17 similar employee or contractor performing services that concern technical or policy matters must
18 be independent (not under contract with any Party) and selected by the Watermaster (and if a
19 technical advisor, following input from the Technical Advisory Committee) through an arms-
20 length RFP process unless otherwise agreed by a Supermajority Vote. Any other Watermaster
21 employee or contractor may be employed by, or under contract with a Party, provided that he or
22 she abides by any relevant Court orders, Watermaster determines that the employee or contractor
23 will not be issuing technical or policy recommendations to Watermaster, and the retention of the
24 employee or contractor is appropriate to perform services to Watermaster in the most effective
25 and cost-efficient manner.

26 **D. Rules and Regulations.** The Watermaster will operate pursuant to the
27 Watermaster Rules and Regulations attached hereto as **Exhibit "5."** The Watermaster may amend
28 the Watermaster Rules and Regulation by Supermajority Vote after public hearing, noticed to all

Parties, with a specific draft of the proposed modifications, no less than thirty days prior to the date of the hearing thereon. Upon the request of any objecting member of the Watermaster, the Watermaster must obtain Court approval of any proposed changes before they become effective.

E. Watermaster Powers and Responsibilities.

1. Powers. Subject to the continuing supervision and control of this Court, the Watermaster will have and may exercise: (i) the powers and duties set forth for a GSA pursuant to Water Code sections 10725 through 10726.5 and 10726.8 to the extent not inconsistent with any provision of this Judgment and subject to the limitations under SGMA; and (ii) any specific powers, authority and duties granted or imposed elsewhere in this Judgment.

2. Notice List. The Watermaster shall maintain a current list of Parties to receive notice hereunder.

3. Annual Budget Process. The Watermaster shall prepare a Watermaster Budget for each Water Year, hold hearings thereon, and adopt a final Watermaster Budget. The annual Watermaster Budget will be determined by the Watermaster in an amount necessary to fulfill the duties of Watermaster as prescribed by this Judgment and a reasonable reserve, all of which will be subject to review and revision by the Court pursuant to Section VII. Following the adoption of the Watermaster Budget, expenditures within budgeted items may thereafter be made by Watermaster in the exercise of powers herein granted, as a matter of course. Commencing with the Watermaster Budget for the 2021-2022 Water Year, the annual budget process to determine the budget for the following Water Year will be as follows:

<u>Completion Deadline</u>	<u>Action</u>
June 30 ²	Watermaster publishes the Watermaster Budget for ensuing Water Year
July 31	Any challenge to the budget by a Party must be initiated by notice to the Watermaster
August 30	Mediation of any challenge to the budget is completed pursuant to Section VII.A(1)

² These dates commence in June preceding the beginning of the ensuing Water Year on October 1st for which the Watermaster Budget is being calculated. Therefore, Watermaster will publish the Watermaster Budget for the 2021-2022 Water Year on or before June 30, 2021.

1	October 15	Any challenge to the budget by a Party unresolved by mediation will be heard by the Court
2		
3	October 15	Watermaster issues notice to each Party of that Party's prior Water Year Pumping (specifying the amount of Pumping of Annual Allocation and Carryover, respectively), and the maximum amount of Annual Allocation eligible for Carryover from the preceding Water Year. Watermaster also provides each Party an estimate of the Pumping Assessment to assist Parties in making informed decisions regarding Carryover election and any election not to Pump or Carryover Annual Allocation in the ensuing Water Year
4		
5		
6		
7	October 31	Court order is entered on any Party's challenge to budget heard by the Court
8		
9	October 31	Each Party informs Watermaster of Carryover election and amount, and any election to forego Pumping and Carryover of its Annual Allocation in the ensuing Water Year. Any Party that did not Pump Groundwater during the preceding Water Year that intends to Pump Groundwater in the ensuing Water Year informs Watermaster of such election.
10		
11		
12	November 30	Watermaster provides Pumping Assessment invoice, based on the Adjusted Pumping Calculation for the preceding Water Year, to each Party for first installment of Pumping Assessment
13		
14	December 31	First installment of Pumping Assessment due
15		
16	May 31	Watermaster provides Pumping Assessment invoice, based on the Adjusted Pumping Calculation for the preceding Water Year, to each Party for second installment of Pumping Assessment
17		
18	June 30	Second installment of Pumping Assessment due

19 4. Pumping Assessments. The annual Watermaster Budget costs in excess of
20 applicable grants, loans, any Overproduction Penalty Assessment funds elected by Watermaster
21 to be applied to the Watermaster Budget (i.e. any such funds not used to Lease Annual Production
22 to offset the Overproduction), and assessments levied and collected on the State Park and the
23 Borrego Springs Unified School District for their Pumping will be funded by a uniform "Pumping
24 Assessment". To determine each Party's Pumping Assessment, Watermaster will first determine
25 for each Party an "Adjusted Pumping Calculation," which will equal the Amount of Annual
26 Allocation Pumped by the Party during the preceding Water Year (or by the Party's lessee if the
27 Party has Leased any portion of its Annual Allocation to another Party), minus the amount of
28

1 Carryover Pumped during the preceding Water Year³ by the Party (or any lessee of the
2 Carryover) and minus any amount of Groundwater Pumped pursuant to a Lease of Annual
3 Allocation or Carryover from another Party, plus the amount of Carryover elected for the ensuing
4 Water Year by the Party. The amount of each Party's Pumping Assessment will be calculated by
5 multiplying the amount of the annual Watermaster Budget against a percentage derived by
6 dividing the amount of the Party's Adjusted Pumping Calculation by the total of all Parties'
7 Adjusted Pumping Calculations. If a Party timely notifies Watermaster that no Pumping will
8 occur pursuant to the Party's BPA during the ensuing Water Year and that the Party will not
9 Carryover any of its Annual Allocation from the preceding Water Year, that Party's Adjusted
10 Pumping Calculation shall be excluded from the total of all Parties' Adjusted Pumping
11 Calculations in calculating Pumping Assessments for the ensuing Water Year under this
12 Subsection IV(E)(4) and the Party will not be assessed a Pumping Assessment in the ensuing
13 Water Year. Under such election, no Pumping may be made pursuant to the applicable Annual
14 Allocation during the ensuing Water Year. If a Party electing to forego Pumping in a Water Year
15 pursuant to a BPA subsequently elects to Pump Groundwater pursuant to the BPA in a future
16 Water Year (i.e., any Water Year after the ensuing Water Year) or transfers the BPA to another
17 Party pursuant to a Lease or Permanent Transfer and the transferee elects to recommence
18 Pumping in the future Water Year pursuant to the BPA, the Party's Adjusted Pumping
19 Calculation for purposes of determining the amount of the Party's (or the transferee's) Pumping
20 Assessment during the Water Year in which it intends to recommence Pumping will be
21 determined on the basis of the Party's Annual Allocation in effect during the preceding Water
22 Year (i.e., for purposes of calculating the Pumping Assessment the Party [or transferee] will be
23 deemed to have Pumped the applicable Annual Allocation during the preceding Water Year).
24 The cumulative Adjusted Pumping Calculations used as the denominator for determining
25 Pumping Assessments will be adjusted in a like amount.

26 5. Annual Report

27
28 ³ There will be no Carryover Pumped during the 2020-2021 Water Year because this will be the
first Water Year with Annual Allocations.

1 a. Process. The Watermaster shall file an Annual Report with this
2 Court not later than February 1 of each Water Year beginning February 1 following the first full
3 Water Year after entry of Judgment. Prior to filing the Annual Report with this Court,
4 Watermaster shall notify all Parties that a draft of the Annual Report is available for review and
5 shall provide notice of a hearing to receive comments and recommendations for changes in the
6 report. The notice of hearing may include such summary of the draft report as Watermaster may
7 deem appropriate. Watermaster shall also distribute the Annual Report to the Parties requesting
8 copies and file it with DWR.

9 b. Contents. The Annual Report shall include the information set
10 forth in Water Code section 10728 and 23 California Code of Regulations section 356.2, an
11 annual fiscal report of the operation of Watermaster during the preceding Water Year, an audit of
12 all assessments and expenditures by Watermaster, a summary of the management of the Basin
13 and Watermaster activities pursuant to this Judgment, a summary of aggregate Pumping, a record
14 of Leases and Permanent Transfers of BPA and the amount of Carryover held by each Party, any
15 recommendations to the Court concerning further orders of this Court to advance the Sustainable
16 Groundwater Management for the Basin, and such additional information as may be required by
17 order of the Court.

18 6. Pumping Reports. Each Pumper shall transmit to Watermaster, pursuant to
19 procedures and time schedules to be established by Watermaster, water production data from the
20 Pumper's meter system. Each Pumper shall annually file with Watermaster, on a form to be
21 prescribed by Watermaster, a report that provides: (i) a written verification by the manufacturer
22 or qualified meter installer certifying the ongoing accuracy of the meter readings and meter
23 calibration, as well as verification that there are no valves or other devices upstream of the meter
24 that could lead to pumped water being diverted before being read by the meter; and (ii) such
25 additional information as may be required by order of the Court.

26 7. Meetings with the Technical Advisory Committee. The Watermaster shall
27 meet on a regular basis and at least semi-annually with the Technical Advisory Committee to
28 review Watermaster activities pursuant to this Judgment and to receive advisory

1 recommendations from the Technical Advisory Committee. Unauthorized Pumping. The
2 Watermaster shall undertake any action, including bringing any motion to the Court, necessary to
3 enjoin unauthorized Pumping.

4 9. Data, Estimates and Procedures. The Watermaster shall use, among other
5 available data, BVHM runs and best available records and data to support the implementation of
6 this Judgment. Where actual records of data are not available, Watermaster shall rely on and use
7 sound scientific and engineering estimates for the BVHM runs. Watermaster may use
8 preliminary records of measurements, and, if revisions are subsequently made, Watermaster may
9 reflect such revisions in subsequent accounting.

10 10. Watermaster's Access to Private Property. Watermaster may enter the
11 private property of Parties for the purpose of administering its responsibilities under this
12 Judgment, provided that, excepting any entry only for the specified water quality monitoring and
13 alternative meter inspection purposes pursuant to Sections VI(A) and VI(B), such entry may only
14 be made at the permission of the Party and following execution of another Entry Agreement as
15 specified in Exhibit "8" specifying the other activities to be undertaken, or pursuant to or an
16 inspection warrant under Water Code section 10725.4.

17 F. Injuries Caused by Watermaster and Board Member, Officer, and
18 Appointing Entity Liability. As a special master of this Court, Watermaster will not be held
19 liable to any Person for any injury, at law or in equity, alleged to result or arise from,
20 Watermaster's actions or omissions. The Court may, however, through noticed motion to this
21 Court under the continuing jurisdiction provisions set forth in Section VII of this Judgment, order
22 Watermaster to effect an appropriate remedy for any Person demonstrating an injury resulting
23 from Watermaster's actions or omissions, including without limitation payment of monetary
24 sums. No Watermaster Board member or officer, nor any Person appointing a Watermaster
25 Board member, will be held liable for any injury arising from or relating to a Watermaster Board
26 member's or officer's service on behalf of Watermaster if such Board member or officer
27 conducted himself or herself in good faith and reasonably believed that his or her conduct was
28 lawful and in compliance with the Judgment, Rules and Regulations of the Watermaster and

1 orders of the Court. If any dispute arises concerning the satisfaction of this criteria for such
2 exemption of liability pursuant to the preceding sentence, the Court will determine such matter on
3 noticed motion pursuant to the continuing jurisdiction provisions set forth in Section VII of this
4 Judgment. If this Court determines in such a proceeding that the Board member's or officer's
5 conduct was made in good faith and pursuant to a reasonable belief that his or her conduct was
6 lawful and in compliance with the Judgment, Rules and Regulations of the Watermaster and
7 orders of the Court, then: (i) any monetary remedies ordered by this Court will not be paid by the
8 subject Watermaster Board member, officer, or appointing Person, but rather by Watermaster;
9 and (ii) any reasonable attorney fees, costs, or other expense incurred by such Watermaster Board
10 member, officer, or appointing Person in defense of, or as a result of, the matter will be paid in
11 advance or reimbursed by Watermaster. Watermaster shall obtain and maintain liability
12 insurance, including Officers and Directors coverage, in amounts reasonably necessary to cover
13 Watermaster's obligations under this Section IV.F, provided that Watermaster shall only be
14 obligated to obtain as much of such insurance as is available to Watermaster at reasonable rates.

15 **G. Technical Advisory Committee**

16 1. Selection of Technical Advisory Committee. A Technical Advisory
17 Committee is established to advise the Watermaster on technical matters. TAC meetings may be
18 conducted by meeting within the Basin, by telephone conference, or by web-based video
19 conference, as determined by the TAC members from time to time. TAC meetings shall be open
20 to the public, and shall provide an opportunity for public comment. Membership of the Technical
21 Advisory Committee will be open to an expert hired by any Party holding BPA or the County.
22 To participate on the Technical Advisory Committee, the expert must be a California licensed
23 hydrogeologist, California licensed engineer, professional hydrogeological modeler, professional
24 Groundwater statistician, or other California licensed member of a recognized professional
25 discipline approved by the Watermaster. The Technical Advisory Committee will endeavor to
26 decide all matters by consensus. If consensus cannot be achieved, the Technical Advisory
27 Committee will present a report to the Watermaster describing the differences of opinion and
28

1 arguments in support thereof, with a draft of the report circulated for comment and input by all
2 Technical Advisory Committee members prior to submission of the report to Watermaster.

3 2. Technical Advisory Committee Duties and Responsibilities. The Technical
4 Advisory Committee's responsibilities will include, without limitation, making recommendations
5 based on best science and data collected regarding the Water Budget and the avoidance of
6 Undesirable Result, determined by the TAC based on best available data, including without
7 limitation information generated from BVHM model runs. Such assessment must consider all
8 inflows and outflows from the Basin, including without limitation mountain front underflow and
9 flux into the Borrego Springs Basin across the Coyote Creek fault and all other underflows,
10 agricultural and recreational irrigation return flows; specific yield differences of the three aquifers
11 (upper, middle and lower) within the different Management Areas of the Basin; and other matters
12 approved by the Watermaster to improve upon initial assumptions regarding the Water Budget
13 that will enable better Adaptive Management of the Basin.

14 H. Environmental Working Group. An Environmental Working Group (EWG)
15 will be established to advise the Watermaster on GDE and any other matters approved by the
16 Watermaster. The EWG budget, which shall be adequate for the EWG to carry out its
17 responsibilities as directed by the Watermaster, will be included in the Watermaster Budget.

18 V. ASSESSMENTS

19 A. Authorized Assessments. The Watermaster is authorized to set, levy and collect
20 assessments from the Parties as described herein.

21 1. Pumping Assessment. The Watermaster shall provide an invoice for the
22 assessed Pumping Assessment to each Party pursuant to the schedule set forth in Section IV.E(3).
23 Each Party who does not timely notify Watermaster of their election to forego Pumping and
24 Carryover of its Annual Allocation in the ensuing Water Year will be liable for the payment of
25 such invoice regardless of whether they subsequently Lease or Permanently Transfer part or all of
26 their Annual Allocation during that Water Year. An appeal of the Watermaster's calculation of
27 any Pumping Assessment must be brought pursuant to Section VII of this Judgment within thirty
28 (30) days of receipt of Watermaster's invoice. Payment of any Pumping Assessment appealed to

1 the Court must be made within ten (10) days following the Court order on appeal. If payment is
2 not made on or before the applicable due date, the Watermaster will add a penalty of one percent
3 (1%) per month thereof to such Party's statement.

4 2. Overproduction Penalty Assessment. The Watermaster shall provide an
5 invoice for an Overproduction Penalty Assessment to each Party who produces in excess of the
6 Party's Max Overproduction Limit, subject to Section III.G herein no later than thirty (30) days
7 following the end of the Water Year in which the Overproduction occurred. Any appeal of an
8 assessed Overproduction Penalty Assessment must be brought pursuant to Section VII of this
9 Judgment within thirty (30) days of receipt of Watermaster's invoice for the Overproduction
10 Penalty Assessment. Unless timely appealed, payment of Watermaster's invoice for the
11 Overproduction Penalty Assessment must be made within ten (10) days of receipt of the invoice.

12 3. Failure to Pay Assessment and Enforcement of Assessments. If a Party
13 knowingly fails to pay an assessment after receipt of the notice of assessment pursuant to the
14 terms of this Judgment within 30 days of it becoming due pursuant to the terms of this Judgment,
15 the Party shall be liable to the Watermaster for interest at a rate of 1 percent per month on the
16 delinquent amount of the assessment and a 10-percent penalty of the amount of the assessment
17 without any interest thereon, consistent with Water Code section 10730.6(b). To collect payment
18 of any delinquent assessment properly levied pursuant to this Section V, Watermaster may
19 exercise the same collection methods authorized to a GSA under Water Code section 10730.6 or
20 the statutory authority of BWD to collect on the tax rolls unpaid assessments pursuant to the
21 BWD's enabling legislation (Wat. Code, §§ 37200 et seq.).

22 **VI. WELL METERING AND WATER QUALITY TESTING**

23 A. Meter Installation for the Purpose of Accurately Measuring Water Use.
24 Parties holding BPA will install and maintain, at their own expense, meters approved by
25 Watermaster that can electronically transmit a recording of the amount of Groundwater Pumped
26 from the Basin and other data to the Watermaster in real time on a schedule as determined by the
27 Watermaster. This meter program will result in cost savings by avoiding the need for the
28 Watermaster to physically read, inspect and validate the accuracy of meters. Alternatively, any

1 Party holding BPA may elect to install and maintain, at its own expense, other meters approved
2 by Watermaster on condition that: (i) the Watermaster physically read the meters on the schedule
3 determined by the Watermaster and the Party pay all costs associated with the Watermaster's
4 reading, accounting and reporting related to such meters; and (ii) the Party has executed an Entry
5 Agreement as specified in Exhibit "8" for the purpose of allowing Watermaster access to the
6 Party's well.

7 **B. Water Quality Monitoring Plan**

8 1. **Purpose.** Regular water quality monitoring is essential to avoiding
9 Undesirable Results and achieving Sustainable Groundwater Management for the Basin.

10 2. **Administration.** Water quality monitoring will be conducted at times and
11 places established by a water quality monitoring plan, which will include a designated network of
12 monitoring wells, developed by the Watermaster with Technical Advisory Committee input
13 within 24 months of entry of Judgment. The Watermaster will determine if changes in water
14 quality are significant and unreasonable following consideration of the cause of impact, the
15 affected beneficial use, potential remedies, input from the Technical Advisory Committee, and
16 subject to approval by this Court exercising independent judgment. Any Party may appeal the
17 approval of the water quality monitoring plan to this Court for resolution pursuant to Section VII.
18 Qualified Watermaster staff or consultants are permitted to access private property for the sole
19 purpose of water quality testing under the approved water quality monitoring program in
20 compliance with the terms of an Entry Agreement with the landowner. Such Entry Agreement
21 must be in substantial compliance with the form of agreement attached hereto as Exhibit "8,"
22 which will protect the landowner from liability for damage and injury resulting from
23 Watermaster's entry onto the parcel (including naming the landowner and all businesses
24 operating on the property as additional insured), provide for advance notice, limit activities on the
25 parcel to those necessary to accomplish the purpose of the entry, avoid undue interference with
26 agricultural or other business activities upon the parcel, and ensure the safety of third parties
27 entering onto operating agricultural properties. Nothing in this Judgment shall preclude the
28 Watermaster from obtaining an inspection warrant under Water Code section 10725.4.

1 **VII. CONTINUING JURISDICTION AND APPEAL OF WATERMASTER**

2 **DECISIONS**

3 **A. Jurisdiction Reserved.** Consistent with Section 852 of the Code of Civil
4 Procedure, full jurisdiction, power and authority are retained by and reserved to this Court for
5 purposes of enabling this Court upon the noticed motion of any Party or the Watermaster, or sua
6 sponte, to make such further or supplemental orders or directions as may be necessary or
7 appropriate for: (i) the operation of the Physical Solution established by this Judgment; (ii)
8 interpretation, enforcement or carrying out of this Judgment, or (iii) the modification,
9 amendment, or amplification any of the provisions of this Judgment, or to add to the provisions
10 hereof, consistent with the rights herein decreed.

11 1. Contested Watermaster decisions or other matters of disagreement will be
12 reviewed by this Court upon noticed motion of any Party, any Watermaster Board member or the
13 Watermaster. The Court review shall be de novo, without evidentiary weight to the Watermaster
14 action or decision. The decision of the Court upon any such motion shall be an appealable
15 "Supplemental Order" in this case. When the Supplemental Order is final it shall be binding upon
16 the Watermaster and the Parties. With the exception of motions to review the Watermaster
17 Budget or any assessment issued by Watermaster, which are subject to a thirty (30) day filing
18 deadline, any such motion must be filed with the Court within ninety (90) days of the
19 Watermaster decision or action or it is barred. Unless otherwise agreed by all Parties in
20 disagreement, any Watermaster Boardmember in disagreement, and Watermaster if the dispute
21 involves Watermaster ("Party(ies) in Disagreement"), upon filing a motion with this Court to
22 resolve the disagreement, the Parties in Disagreement shall first engage in mediation, which
23 mediation will extend the Court hearing date for up to sixty (60) days while the mediation is
24 pending. Unless otherwise provided for herein or the Parties in Disagreement agree otherwise,
25 the mediation will be initiated and conducted under the applicable rules of the American
26 Arbitration Association that are applicable as of the date of the dispute. The mediation will be
27 limited to one full day unless extended by the Parties in Disagreement. The Parties in
28 Disagreement participating in any such mediation will be responsible for their own individual

1 costs of participation and shall split evenly the cost of the mediation unless the Watermaster is a
2 Party in Disagreement, in which case the Watermaster shall contribute 50% of the cost, using
3 funds from Watermaster's annual budget, and the other 50% of the cost will be split evenly
4 among the other Parties in Disagreement participating in the mediation.

5 2. This Court may appoint an independent special master or referee to advise
6 this Court with respect to any dispute.

7 3. Annual status conferences will be established as part of this Judgment for
8 the Watermaster to report to this Court, for this Court to consider any matters presented by the
9 Watermaster requiring Court approval, and for review of any disputed matters noticed for hearing
10 on the date of the annual status conference in accordance with this Section VII.A(3).

11 **B. Watermaster Enforcement.** Watermaster (as well any Party upon Watermaster's
12 failure or refusal to enforce) may petition this Court to issue enforcement orders, upon noticed
13 motion and after hearing, as necessary to remedy any non-compliance with the terms of this
14 Judgment. Watermaster is also authorized to coordinate with the County in connection with
15 County enforcement of land use and nuisance ordinances related to following.

16 **VIII. FINDINGS**

17 **A.** The Judgment is consistent with Section 2 of Article X of the California
18 Constitution, requiring that the water resources of the State be put to beneficial use to the fullest
19 extent possible.

20 **B.** The Judgment is consistent with the water right priorities of all non-stipulating
21 Parties and any Persons who are De Minimis Pumpers.

22 **C.** The Judgment treats all objecting Parties and any persons who have claims that are
23 exempt equitably as compared to the Stipulating Parties.

24 **D.** Plaintiff complied with the service and notice provisions of Code of Civil
25 Procedure sections 835 and 836, which compliance is deemed effective service of process of the
26 Complaint and notice on all interested parties of the Comprehensive Adjudication of the Basin for
27 purposes of establishing in rem jurisdiction and the comprehensive binding effect of the
28 Comprehensive Adjudication, consistent with Code of Civil Procedure sections 836(j) and 851.

1 E. All rights to Pump and store water in the Basin are comprehensively determined
2 by this Judgment consistent with Code of Civil Procedure sections 830(b)(7) and 834. All
3 unexercised rights and future rights to Pump water in the Basin are subordinated to all rights of
4 the Parties currently being exercised and rights authorized under this Judgment, consistent with
5 Code of Civil Procedure section 830(b)(7).

6 F. Pumping by Parties that are De Minimis Pumpers as of the time of the filing of the
7 Complaint does not presently have a material effect on the groundwater rights of other Parties.
8 Accordingly, this Judgment does not presently regulate a Party that was Pumping Groundwater as
9 a De Minimis Pumper as of the time of the filing of the Complaint, provided the Pumping by such
10 De Minimis Pumper remains within the two acre foot use limitations established in this Judgment
11 and provided that such De Minimis Pumper does not seek to transfer their Pumping to another
12 real property owned by another Person. The Court may revisit and change this finding upon a
13 showing of necessity for the Adaptive Management of the Basin pursuant to the Court's
14 continuing jurisdiction.

15
16 **IX. BINDING EFFECT**

17 The Judgment is binding on the Parties to the Comprehensive Adjudication and all their
18 successors in interest, including, but not limited to, heirs, executors, administrators, assigns,
19 lessees, licensees, the agents and employees of the Parties to the Comprehensive Adjudication
20 and all their successors in interest, and all landowners or other persons claiming rights to Pump
21 Groundwater from the Basin, consistent with Code of Civil Procedure section 851. The Judgment
22 also is an in rem judgment binding on all real property overlying the Basin. The Watermaster
23 may cause this Judgment to be recorded against any or all parcels overlying the Basin. The seller
24 of any real property subject to this Judgment shall notify the purchaser of the existence of the
25 Judgment and its binding effect on the real property.

26 **X. MISCELLANEOUS PROVISIONS**

27 A. **Water Quality.** Nothing in this Judgment shall be interpreted as relieving any
28 Party of its responsibilities to comply with State or Federal laws for the protection of water

1 quality or the provisions of any permits, standards, requirements, or orders promulgated
2 thereunder.

3 **B. Well Abandonment.** The Parties and Watermaster agree to cooperate with the
4 County in the enforcement of the County's well abandonment ordinance in effect in the Basin as
5 improperly abandoned wells have the potential to provide a migration pathway of contaminants
6 into the Basin.

7 **C. Designation of Address for Notice and Service.** Each Party shall designate the
8 name, address, and e-mail address to be used for purposes of all subsequent notices and service,
9 either by its endorsement on this Judgment or by a separate designation to be filed within thirty
10 days after Judgment has been entered. This designation may be changed from time to time by
11 filing a written notice of such change with Watermaster. Any Party desiring to be relieved of
12 receiving notices may file a waiver of notice on a form approved by the Watermaster. If no
13 designation is made, a Party's designee shall be deemed to be, in order of priority: i) the Party's
14 attorney of record; ii) if the Party does not have an attorney of record, the Party itself at the
15 address specified on the Watermaster's list.

16 **D. Notice and Service of Documents.** All notices or service of documents pursuant
17 to this Judgment by Watermaster or any Party will be made by electronic mail to the greatest
18 extent feasible.

19 **E. No Abandonment of Rights.** In the interest of the Basin and its water supply, and
20 the principle of reasonable and beneficial use, no Party shall be encouraged to Pump and use
21 more water in any Water Year than is reasonably required. Failure to Pump all of the
22 Groundwater to which a Party is entitled will not be deemed or constitute a forfeiture or an
23 abandonment of such Party's right, in whole or in part, except upon a written election by the Party
24 holding the BPA or by order of the Court exercising continuing jurisdiction under Section VII
25 upon noticed motion and after hearing.

26 **F. Costs.** Except subject to any existing Court orders and stipulations or separate
27 agreement of one or more Parties, each Party shall bear its own costs and attorneys' fees arising
28 from the Comprehensive Adjudication.

G. Headings; Paragraph References. Captions and headings appearing in this Judgment are inserted solely as reference aids for ease and convenience; they shall not be deemed to define or limit the scope or substance of the provisions they introduce, nor shall they be used in construing the intent or effect of such provisions.

H. Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation of the Parties.

I. Severability. Except as specifically provided herein, the provisions of this Judgment are not severable.

J. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Judgment.

K. **Exhibits and Other Writings.** Any and all exhibits, documents, instruments, certificates or other writings attached hereto or required or provided for by this Judgment, if any, will be deemed part of this Judgment and will be considered set forth in full at each reference thereto in this Judgment.

XXX
Superior Court of the State
of California for the
County of

Exhibit "1"

Groundwater Management Plan

Filed Under Separate Cover

Exhibit "2"

Stipulation

Attached

Attorneys for Plaintiff Borrego Water District

Exempt from Filing Fees Per
Government Code, § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

BORREGO WATER DISTRICT,

Case No.

Plaintiff,

v.

Complaint filed:

ALL PERSONS INTERESTED IN THE
COMPREHENSIVE ADJUDICATION OF
THE BORREGO SPRINGS SUBBASIN OF
THE BORREGO VALLEY
GROUNDWATER BASIN – [INCLUDE
LIST OF LANDOWNERS AND
PUMPERS]

Defendants.

Plaintiff BORREGO WATER DISTRICT and Defendants (collectively, the “Stipulating Parties”) hereby stipulate and agree as follows:

1. To entry of the proposed Stipulated Judgement, attached hereto as Exhibit “A” and incorporated herein by reference, by the Court pursuant to Code of Civil Procedure sections 830 et seq., to (i) comprehensively determine and adjudicate all groundwater rights in the Borrego Springs Subbasin (“Basin”) of the Borrego Valley Groundwater Basin, whether based on appropriation, overlying right, prescriptive right, or other basis of right in the Basin; and (ii) establish a physical solution for the perpetual and sustainable management of the Basin consistent with the substantive objectives of the Sustainable Groundwater Management Act (“SGMA”) and the reasonable and beneficial use of the Basin required by Article X, section 2 of the California Constitution. .

2. This Stipulation shall bind and benefit them, and will be binding upon and benefit all their respective heirs, successors-in-interest, and assigns prior to and until entered by the Court. In the event, the Stipulated Judgment is contested by third parties and not entered by the Court, this Stipulation will not bind any Stipulating Party.

3. Each signatory to this Stipulation represents and affirms that he or she is legally authorized to bind the Stipulating Party on behalf of whom he or she is signing.

Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

1 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

3 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

5 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

7 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

9 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

11 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

13 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

15 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

17 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

19 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

21 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

23 Dated:

Name of Party _____
By: _____
Print Name: _____
Title: _____

25

26

27

28

Exhibit "3"

Minimum Fallowing Standards

- All agricultural tree crops shall be destroyed (e.g., chipped or burned).
- All land where the crops were destroyed shall be stabilized (e.g. mulched with the resulting tree crop chippings or ash, planted with rye grass, barley or other acceptable cover crop, application of other product to aid in dust abatement, or combination thereof).
- All irrigation wells not used for irrigation of other property, for monitoring or for other allowable purposes shall be properly abandoned, converted to monitoring wells, or otherwise exempted under applicable County standards.
- All above ground irrigation lines/piping shall be permanently removed.
- All hazardous materials (e.g., drums of used oil) will be removed from the fallowed site.

Exhibit “4”

BASELINE PUMPING ALLOCATIONS

Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
Agri-Empire	574	14032010 14032019	010S006E23M001S
Rick and Joan Anson (Anson Family Trust 08-18-08?) ³	2	1411920700 1411920800 1412540500	N/A
B&J Landscaping (Alan & Tracy Asche)	5	19902004	DEH1980-LWELL-8027
Gary D. & Darlis A. Bailey	7	14013042	
D&J Bauer Family Trust 11-18-04	1,826	14007027 14011014 14007018 14007017 14001011	DEH2008-LWELL-19669 DEH2012-LWELL-21135 33.31145 Lat. 116.368 Long. W06041 W62130 DEH2015LWE11006 LWELL-001658
William M. Bauer	670	14001008	DEH2016-LWELL-001642
Borrego Air Ranch Mutual Water & Improvement Co.	12	20119208 ⁴	011S007E30L001S
Borrego Nazareth LLC (Borrego Springs Resort)	1,312	199-010-16 199-010-17 199-010-18 199-010-19 199-010-23 199-010-24 199-010-25	

¹ Allocations to the Anza-Borrego Desert State Park and Borrego Unified School District (Borrego Elementary) are separate from BPA, per the terms of the Judgment.

² Except for BPA allocated to BWD, BPA must be assigned to APN(s) and Well Number(s) to be effective. If state well number(s) are not found following a Party's good faith review of DWR's well completion report database, County well files and the Party's available records, the Party shall provide the Watermaster Executive Director with a written summary of such good faith efforts to locate the state well number(s), and the Watermaster Executive Director shall assign local well number(s) in order to account for the Party's exercise of its BPA.

³ Full amount is water credit to BPA conversion.

⁴ Water eligible for use at all parcels served by Borrego Air Ranch as shown on the attached boundary map, and those parcels will be treated as the Original BPA Parcel.

Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
		199-010-26 199-080-10 199-011-04 199-100-24 199-080-11 199-080-20 199-080-22 199-080-15 199-080-16 199-080-17	011S006E09B002S 011S006E09B001S
Borrego Nazareth LLC (Circle Club)	150	19908021	
Borrego Water District	2,581 ⁵	N/A	N/A
Carpenter Family Trust 12-11-07	6	14028035	
Conzelman Family Trust A 11-22-83; Conzelman Family Trust C 11-22-83; Jensen Family Trust 8-05-83; Sommerville Trust 11-22-83 (OASIS – Cogan Ranch)	686	1401302400 1401304000 1401304300 ⁶	DEH2012-LWELL-21118 ⁷ [Well number unknown] ⁸
Conzelman Family Trust A 11-22-83; Conzelman Family Trust C 11-22-83; Jensen Family Trust 8-05-83; Sommerville Trust 11-22-83 (OASIS – Gable House)	486	1401300100	
Conzelman Family Trust A 11-22-83; Conzelman Family	878	1401300600 1401300700 1401300800	DEH2007-LWELL-18244

⁵ Includes water credit to BPA conversion of 359 AF of BPA.

⁶ Dudek lists another well located at APN 14013043.

⁷ Serves Gable House Ranch.

⁸ Well number unknown, will update once number can be determined.

Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
Trust C 11-22-83; Jensen Family Trust 8-05-83; Sommerville Trust 11-22-83 (OASIS – Gigi Ranch)		1401300900 1401301000 1401301100 1401301200 1401301300 1401301400 1401301500 1401301600 1401301700 1401301800 1401302100 1401302200 1401302500 1401302600 1401302700 1401304100	Serves Cogan Ranch ⁹
Conzelman Family Trust A 11-22-83; Conzelman Family Trust C 11-22-83; Jensen Family Trust 8-05-83; Sommerville Trust 11-22-83 (OASIS – Peg Leg Ranch)	676	1401101500 1401101600	DEH2004-LWELL-15891
Conzelman Family Trust A 11-22-83; Conzelman Family Trust C 11-22-83; Jensen Family Trust 8-05-83; Sommerville Trust 11-22-83 (OASIS – Rancho Caterina)	1,379	1400100300 1400100600 1400100900	DEH1993-LWELL- 9977 ¹⁰ DEH2004-LWELL- 15890 ¹¹ DEH1995-LWELL- 3866 ¹²
Conzelman Family Trust A 11-22-83 (OASIS – De Anza Ranch)	636	1400702200	010S006E07A001S (located on adjacent non-OASIS APN 1400606300, pursuant to easement appurtenant) ¹³
Crumrine Family	21	14121061	DEH2015-LWELL-001073

⁹ Serves Cogan Ranch.

¹⁰ Confirm 1993 Permit No. W30469. Permit is currently being renewed

¹¹ Confirm 2004 Permit No. 15890.

¹² Confirm 1995 Permit No. W63057.

¹³ Confirm 1972 Permit No. N.W. #1

Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
Trust 04-19-06			
C W C Casa Del Zorro LLC	22	??? (Multiple) 2000906400 ¹⁴	011S006E23E001S
De Anza Desert Country Club	957	14018519 14024262 14026101 14026408 1402425700 ¹⁵	010S006E20N001
Desert Flora Nursery (John B. & Silvia H. Hogan)	8	19901112	
Ellis Farms (West Coast Trees; John Doljanin)	887	14011019 14011020 (2) 14011024 14029005 14029008	DEH1979-LWELL-4103 DEH1979-LWELL-4104 DEH1984-LWELL-4102
Genus LP ¹⁶	112	1410303500	N/A
JM Roadrunner, LLC (Cogan)	555	14013044 14013045	
JM RoadRunner, LLC (Road Runner I)	671	14013028 14013034 14013035 14013036 14013038	010S006E15D003S 010S006E15D004S
JM RoadRunner, LLC (Road Runner II)	387	14103026 14103027	33.27511 Lat. 116.349 Long. 33,27487 Lat. 116.352 Long.
Lundberg Family Trust (formerly Lundavid LLC) ¹⁷	377	14003003	
Edward Kitchen ¹⁸	2		N/A
Michael Maiter & John Savittieri ¹⁹	1	2002530200 1400605400 1400605500	N/A
Mountain Springs Organics, Inc.	103	14011021	010S006E17J003S DEH1996-LWELL-6466

¹⁴ La Casa Del Zorro Parcel identified on Dudek DMS with Well name La Casa

¹⁵ Parcel/APN added with the Well number for De Anza

¹⁶ Full amount is water credit to BPA conversion.

¹⁷ Full amount is water credit to BPA conversion.

¹⁸ Full amount is water credit to BPA conversion.

¹⁹ Full amount is water credit to BPA conversion.

Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
(Gamini D. Weerasekera)			
Manuel & Araceli C. Navarro	14	14121016	010S006E34M001S DEH1982-LWELL-1076
Monica Real Estate Holdings LP ²⁰	18	11982620500 1983732800	N/A
Doug Munson & Patricia Munson ²¹	1		N/A
Ronald Pecoff	114	14103014	010S006E29N002S 010S006E29N001S
The Roadrunner Club at Borrego, LP (Roadrunner Golf and Country Club) ²²	520	77141214 77141216 77141218 77141253	010S006E29N002S
RTA Borrego, LLC ²³	12		N/A
Jose G. & Maria E. Sanchez	4	19913003	
Seley Ranches, L.P.	2,226	14007014 14007016 14009004	010S006E09G001S 010S006E09Q001S 010S006E09J002S 010S006E10L001S
Shenandoah Growers, Inc. (Former Sonora Desert Palms)	61	14116047	Well # 1
Max Siefker ²⁴	2		N/A
Brian Siefker (or Brian Siefker Trust 12-18-01?) ²⁵	3	1412710700	N/A
Smith Kent R. Revocable Living Trust 01-04-90 (aka Kent R. Smith) ²⁶	32	10800500 2003120600	N/A
The Springs RV and Golf Resort, LP (the Springs at Borrego)	287	14103014 (2) 20027402 20027508	010S006E29N002S 010S006E29N001S

²⁰ Full amount is water credit to BPA conversion.

²¹ Full amount is water credit to BPA conversion.

²² Includes water credit to BPA conversion of 171 AF of BPA.

²³ Full amount is water credit to BPA conversion.

²⁴ Full amount is water credit to BPA conversion.

²⁵ Full amount is water credit to BPA conversion.

²⁶ Full amount is water credit to BPA conversion.

Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
RV Resort and Golf Club)		20035024 20036017 20037038	
T2 Borrego LLC ²⁷	965	14001010 14007002	010S006E05F001S 010S006E08B001S
T2 Borrego, LLC (Ram's Hill Golf Club) ²⁸	2,141	200-120-20 200-160-26 200-160-27 200-160-28 200-273-03 200-273-08 200-120-29 200-120-30 200-120-31 200-120-39 200-120-41 200-120-48 200-120-51 200-120-52 200-120-53 200-140-12 200-160-30 200-210-21 200-210-22 200-271-03 200-271-04 200-271-06 200-271-07 200-271-15 200-271-16 200-271-21 200-271-22 200-271-23 200-271-24 200-271-29 200-271-32 200-271-35 200-271-36 200-271-37 200-271-38 200-272-08	011S006E24Q002S 011S006E25A001S 011S006E25C002S 011S006E25C001S 011S006E26H001S 011S006E26B001S

²⁷ This separate entry for T2 Borrego LLC represents parcels that are not contiguous with the other T2 Borrego LLC parcels.

²⁸ Includes water credit to BPA conversion of 1146 AF of BPA.

Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
		200-273-02 200-273-04 200-273-05 200-273-06 200-273-07 200-274-02 200-275-08 200-275-09 200-275-10 200-275-11 200-311-12 200-311-13 200-311-14 200-311-15 200-311-16 200-311-17 200-311-18 200-340-49 200-340-50 200-340-51 200-340-91 200-340-92 200-340-93 200-340-94 200-340-95 200-350-01 200-350-24 200-360-17 200-360-18 200-370-37 200-370-38 200-380-29 200-400-02 200-400-03 200-400-04 200-400-05 200-400-06 200-400-07 200-400-08 200-400-09 200-400-10 200-401-07 201-240-01	
T2 Farms LLC	485	14007031	010S006E09C001S (DEH1990-

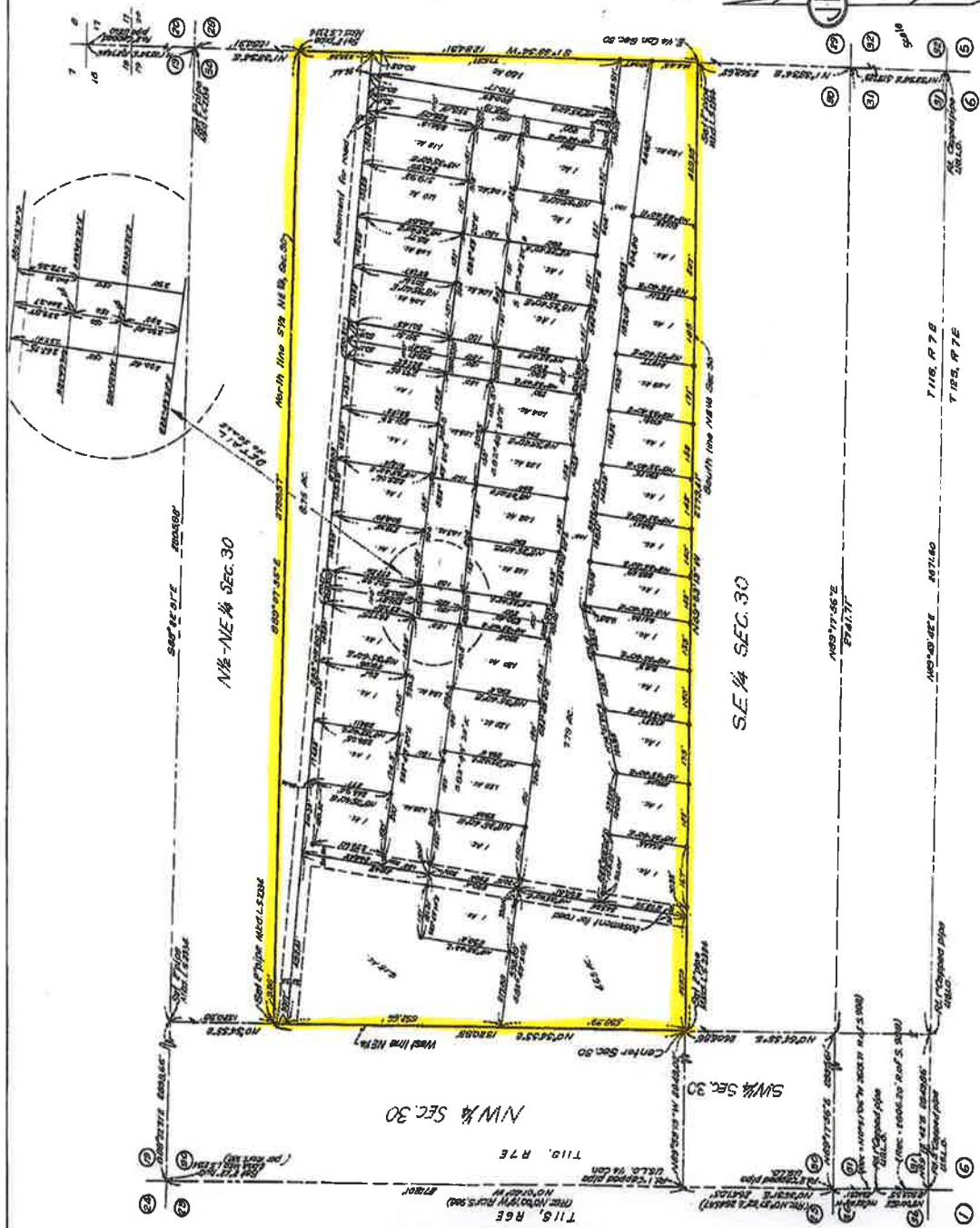
Name	BPA¹ (Acre Feet)	APN(s)	Well Number(s)²
			LWELL-6865)
Trojan Citrus, LLC	1,142	14007015 14007020 14007028	33.325 Lat. 116.354 Long. 33.31505 Lat. 116.372 Long. 33.31193 Lat. 116.376 Long.
Joel Vanasdlen	36	19916004 19916040	
Michael C. Ward	82	14103028	
Wisdom Gabriel B&Weis-Wisdom Diana Family 2008 Trust 08-01-08 (aka Gabriel Wisdom) ²⁹	1	1982510700 1982510800	N/A
Wright Family Living Trust 06-19-89	158	14121057	010S006E33C002S
TOTAL BPA	24,293		

²⁹ Full amount is water credit to BPA conversion.

R. OF S. NO. 1841

RECORD OF SURVEY

S 1/2 OF THE NE 1/4 OF SEC. 30
T 11 S, R 7 E, S.B.M.
SAN DIEGO COUNTY, CALIF.



Base of bearing derived from BLM's No. 349, a 1970-1971 section line of 1940
S.B.M. T11S, R7E, which is in form of a permanent monument and is
a 1/4 acre lot contained within a larger lot of 1/2 acre, unless
otherwise noted.

I, James S. Peterson, a licensed surveyor of the State of California,
do hereby certify that the foregoing is a true and correct copy of the
original survey as shown to me by the owner, and that the survey is true and
correct as shown, that the monuments are of the character and
occupy the positions indicated and are sufficient to enable the
survey to be retraced.

James S. Peterson
Licensed Surveyor No. 2854

I, James S. Peterson, hereby state that I am the surveyor who
made this record of survey, that the land is divided into lots or
parcels, each of a net area of 1 acre or more, and the Board
of Supervisors of the County of San Diego has approved the
record of survey as shown to it in street alignment and north, distance
provisions and lot location.

James S. Peterson
Licensed Surveyor No. 2854

I, H. Mack County Surveyor of San Diego County, state that I have
examined the record of survey and find it to be a true and correct
copy of the original survey as shown to me by the owner, and that the
survey is true and correct as shown, that the monuments are of the
character and occupy the positions indicated and are sufficient to enable the
survey to be retraced.

H. Mack County Surveyor
Assistant

File No. 53381
Filed at the records of James S. Peterson this 21st day of MAY
1971, A.D. at 3:11 minutes P.M. in the County of San Diego.
Attest: H. Mack County Recorder
By: H. B. Schneider
Deputy

Note: Corner common to Sections 19-20-21 & 20-21-22
common to Sections 29-30-31 & 30-31-32 were established by Single
Professional Surveyor's Map No. 349, a 1970-1971 section line of
1940, T11S, R7E, S.B.M. and Sections 19-20, T11S, R7E, S.B.M.
Sections 6 & 7, T11S, R7E.

Exhibit “5”

Watermaster Rules and Regulations

Attached

RULES AND REGULATIONS
OF THE
BORREGO SPRINGS WATERMASTER

[INSERT CASE INFORMATION]

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ARTICLE I

GENERAL PROVISIONS

1.1 Title. This document will be known as the Borrego Springs Watermaster Rules and Regulations or Rules and Regulations. This document was adopted as part of and pursuant to the Judgment.

1.2 Amendment. The Rules and Regulations may be amended only by a Supermajority Vote of the Watermaster Board. All amendments shall be consistent with the Judgment and are subject to approval by the Court at the request of the Watermaster or upon the request of any Party after consideration of the objections of any Party.

1.3 Definitions. The definitions below are set forth for convenience of reference and are intended to be consistent with those set forth in the Judgment (to the extent there is overlap of terms). In the case of any inconsistencies, the definitions in the Judgment prevail over those described below. Any capitalized term used in these Rules and Regulations not defined herein, but defined in the Judgment, will have the meaning ascribed to such term in the Judgment.

1.3.1 Annual Allocation. The maximum amount of Pumping allowed for a Party to the Judgment in a given Water Year (excepting any Pumping of Carryover or imported water if available), which for any particular Water Year will be determined by multiplying the Party's BPA by the Pumping Percentage in effect for that Water Year. Annual Allocation will be rounded to the nearest whole acre-foot.

1.3.2 Annual Report. An annual report of Basin management and Watermaster activities filed with this Court

1.3.3 Basin. Borrego Springs Subbasin of the Borrego Valley Groundwater Basin, as defined by California Department of Water Resources (DWR) Bulletin No. 118, Subbasin No. 7.024.01.

1.3.4 BPA. The maximum allowed Pumping quantity allocated to a Party to the Judgment

1.3.5 Brown Act. The Ralph M. Brown Act, California Government Code sections 54950, et seq., as may be amended from time to time.

1.3.6 Carryover. Any portion of a Party's Annual Allocation not Pumped in the Water Year in which it is allowed, which may be accrued and produced in future Water Years

1.3.7 County. San Diego County government.

1.3.8 Groundwater Dependent Ecosystem (GDE). Ecological communities or species that depend on groundwater emerging from aquifers or on groundwater occurring near the ground surface (California Code of Regulations, tit. 23, § 351(m)).

1.3.9 Groundwater Management Plan (GMP). The plan, attached as Exhibit 1 to the Judgment, which together with the Judgment is intended to implement the Physical Solution for the Basin, satisfy the substantive objectives of SGMA, and serve as an alternative to a groundwater sustainability plan under SGMA following approval by DWR, as authorized by Water Code sections 10733.6 and 10737.4.

1.3.10 Judgment. The Judgment entered by the Court on [date] in the action [case].

1.3.11 Lease. A transfer of Annual Allocation or Carryover for one Water Year (a single year Lease) or for several water years (a multi-year Lease), as will be set forth in the Lease agreement.

1.3.12 Management Areas. The North, Central and South areas of the Basin, as described in the GMP.

1.3.13 Overproduction. Pumping by a Party in any particular Water Year in excess of the sum of the Party's Annual Allocation and any leased Annual Allocation for that Water Year plus any accrued Carryover.

1.3.14 Overproduction Penalty Assessment. A penalty fee for Overproduction.

1.3.15 Party (Parties). Any Person(s) that has (have) been named and served or otherwise properly joined, or has (have) become subject to this Judgment of this Court and all their respective heirs, successors-in-interest and assigns.

1.3.16 Pumping Percentage. The percent of a Party's BPA that is authorized to be Pumped in any particular Water Year.

1.3.17 Rules and Regulations or Borrego Springs Watermaster Rules and Regulations. This document, as amended and supplemented.

1.3.18 SGMA. The Sustainable Groundwater Management Act set forth at California Water Code section 10720, et seq.

1.3.19 Sustainable Yield (Safe Yield). The maximum quantity of water, calculated over a base period representative of long-term conditions in the Basin that can be withdrawn annually from a groundwater supply without causing an Undesirable Result.

1.3.20 TAC. Technical Advisory Committee.

1.3.21 Undesirable Results. As defined in Water Code section 10721(x).

1.3.22 Water Year. October 1st to September 30th, consistent with Water Code section 10721(aa).

1.4 Construction. Unless the context clearly requires otherwise:

- 1.4.1 The plural and singular forms include the other;
- 1.4.2 “Shall,” “will,” and “must” are each mandatory;
- 1.4.3 “May” is permissive;
- 1.4.4 “Or” is not exclusive; and
- 1.4.5 “Includes” and “including” are not limiting.
- 1.4.6 The masculine gender shall include the feminine and neutral genders and vice versa.
- 1.4.7 Reference to any agreement, document, instrument, or report means such agreement, document, instrument or report as amended or modified and in effect from time to time in accordance with the terms thereof.
- 1.4.8 These Rules and Regulations shall be construed consistent with the Judgment. In the event of a conflict between these Rules and Regulations and the Judgment, the Judgment shall prevail.

ARTICLE II

WATERMASTER ADMINISTRATION

2.1 Composition. Pursuant to Section IV.A of the Judgment, the Court has appointed a Watermaster to administer the provisions of the Judgment, including the GMP and any subsequent instructions or orders of this Court thereunder.¹

2.2 Terms. Once appointed in the manner set forth in the Judgment, Watermaster Board members shall continue as board members indefinitely until they resign, are replaced by their respective appointing entity(s), vacate their seat or are removed by the Court for cause.

2.3 Organization of Watermaster. At its first meeting each year, the Watermaster Board will elect a chairperson and a vice chairperson from its membership. The Watermaster Board may also appoint a non-member secretary and a non-member treasurer as additional, non-voting staff members to the Watermaster Board.

2.4 Watermaster Staff. The Watermaster may hire staff consistent with the procedures and requirements of the Judgment. The Watermaster Board may delegate specified powers to any officer or employee of the Watermaster, subject to policies and standards established by the Watermaster Board.

¹ To the extent not inconsistent with law or the terms of the Judgment, these Rules and Regulations shall be applicable to any Interim Watermaster approved by the Court or otherwise operated by the Parties following agreement to implement the provisions of the Judgment by a substantial majority of the Parties before the Court's entry of the Judgment.

2.5 Compensation. The entities and/or Parties appointing individuals to the Watermaster Board will be responsible for payment of compensation, if any, and reimbursement of expenses of their respective Watermaster Board representative.

2.6 Powers and Duties of the Watermaster.

2.6.1 Standard of Performance. The Watermaster shall carry out its duties, powers, and responsibilities in an impartial manner without favor or prejudice to any Management Area, Party, or purpose of use. In carrying out its charge, the Watermaster shall as required segregate and separately exercise in all respects the Watermaster powers delegated by the Court under the Judgment. In exercising its powers and fulfilling its duties, the Watermaster shall rely on and use the best available science, records, and data to implement the Judgment and these Rules and Regulations, consistent with the provisions of Section IV.E(9) of the Judgment.

2.6.2 Selection of Watermaster Technical Consultant. The Watermaster shall select the Watermaster Technical Consultant with the advice of the Technical Advisory Committee. The Watermaster Technical Consultant may exercise any duty or authority vested in the Watermaster as authorized by the Watermaster Board and permitted by the Judgment and applicable law. The Watermaster Technical Consultant may be an independent engineering firm or qualified individual experienced in groundwater hydrology to make recommendations to the Watermaster. The Watermaster Technical Consultant shall serve at the pleasure of the Watermaster Board and may be removed and replaced, subject to 30 days' advance written notice to the Parties and the approval of the Court if such Court approval is requested by any Party. Provided, however, that the Watermaster Technical Consultant may be removed immediately by unanimous vote of the Watermaster Board. The Watermaster Technical Consultant may also serve as Executive Director of the Watermaster.

2.6.3 Environmental Working Group (EWG). An EWG shall be established to advise the Watermaster on GDE and any other matters approved by the Watermaster Board.

2.6.4 Accounting. The Watermaster shall provide for the levy, billing, and collection of all assessments provided for under the Judgment, for the payment of costs and expenses of the Watermaster, and for the performance of such accounting and related functions as may be required in connection with those functions. All funds received, held, and disbursed by the Watermaster shall be by way of separate Watermaster accounts, subject to separate accounting and auditing.

2.6.5 Investment of Funds. The Watermaster may hold and invest all Watermaster funds in investments authorized from time to time for public agencies of the State of California, taking into account the need to increase the earning power of such funds and to safeguard the integrity thereof.

2.6.6 Borrowing. The Watermaster may borrow in anticipation of receipt of proceeds from any assessments authorized in the Judgment in an amount not to exceed the amount of assessments for one year following the procedures described in the Judgment.

2.6.7 Liability Insurance. The Watermaster shall be authorized to obtain and maintain such insurance policies as the Watermaster Board deems appropriate.

2.6.8 Powers/Contracts. The Watermaster may exercise any of the powers described in the Judgment, and may enter into contracts and agreements for the performance of any of such powers on its behalf, provided that Watermaster maintains full oversight of the exercise of such powers.

2.6.9 Record of Transfers. On an annual basis, the Watermaster shall prepare and maintain a report or record of any transfer of BPA among Parties, and update as needed Exhibit 4 to the Judgment. The Watermaster shall file, on an annual basis, an updated Exhibit 4 to the Judgment with the Court, or a statement that no transfer of BPA has occurred in the prior Water Year. Upon reasonable request, the Watermaster shall make such report or record available for inspection by any Party, subject to any order of the Court related to the privacy of information or otherwise.

2.6.10 Enforcement Authority. The Watermaster shall enforce the terms of the Judgment and Groundwater Management Plan as described in the Judgment, and in doing so, may exercise the enforcement authority granted to a groundwater sustainability agency under Water Code section 10732 in addition to any other authority authorized by the Judgment or subsequent order of the Court.

2.6.11 Unauthorized Actions. The Watermaster shall bring such action or motion as is necessary to enjoin any conduct prohibited by the Judgment or Groundwater Management Plan following the procedures described in the Judgment.

2.6.12 Notice List. At all times, the Watermaster shall maintain a current list of Parties to whom notices are to be sent and their addresses for purpose of service.

(a) The Watermaster shall also maintain a current list of such names and addresses of all Parties or their successors, as filed herein.

(b) The Watermaster shall make copies of such lists available to any requesting Party.

(c) Each Party shall designate a name, mailing address and email address to be used for purposes of all notices and service herein, either by its endorsement on the Judgment or by a separate designation to be filed within thirty (30) days after Judgment has been entered.

(d) If no designation is made, a Party's designee shall be deemed to be, in order of priority:

(i) The Party itself at the address on the Watermaster list; or

(ii) The Party's attorney of record.

(e) A Party may change its designation by submitting a written notice of such change to the Watermaster.

(f) A Party that desires to be relieved of receiving notices of Watermaster activity may submit a waiver of notice in a form to be provided by the Watermaster.

2.6.13 Service. Service of notices, determinations, requests, demands, objections, reports, and other papers pursuant to the Judgment, the Groundwater Management Plan and these Rules and Regulations is the responsibility of the Watermaster. The Watermaster will annually establish the service costs. Unless otherwise ordered by the Court, delivery to or service of any Party by the Watermaster, the Court, or any Party of any document required to be served upon or delivered to a Party pursuant to the Groundwater Management Plan or these Rules and Regulations shall be deemed made if made by electronic-filing on a website to be maintained by the Watermaster, with email correspondence to all Parties that have provided Watermaster with an email address pursuant to Section 2.6.12.

Delivery to or service upon any Party by the Watermaster, by any other Party, or by the Court, of any item required to be served upon or delivered to a Party under or pursuant to the Groundwater Management Plan or these Rules and Regulations may also be made by one of the following methods:

(a) First class mail, postage prepaid, addressed to the latest designee of the Party to be served and at the address on the latest designation field by the Party. If the item required to be served is available online, mail service is deemed complete upon mailing of the notice of the exact website location where the item may be viewed.

(b) Electronic Mail addressed to the latest designee of the Party to be served at the email address identified on the latest designation filed by the Party pursuant to Section 2.6.12.

2.6.14 Defense of Judgment. The Watermaster shall reasonably defend the Judgment, the GMP, these Rules and Regulations, and any decision of the Watermaster made pursuant to these Rules and Regulations against challenges brought by any person. Costs incurred by the Watermaster in defending such actions shall be considered a Watermaster general administrative expense.

2.7.16 Grant Funding. The Watermaster shall use best efforts to apply for available grant funding to further sustainable management of the Basin and offset its costs.

2.7 Administration.

2.7.1 Offices. The principal office of the Watermaster shall be located in Borrego Springs at such location or locations as may be designated from time to time by the Watermaster.

2.7.2 Records. The Watermaster's records shall be maintained at its principal office.

(a) Subject to protection of information not subject to disclosure by order of the Court, the Watermaster's records can be reviewed during regular business hours. If copies are requested, they may be obtained by paying for the cost of duplication.

(b) If records are requested in electronic format, the person requesting the records will be responsible for the cost of a consultant to prepare the documents plus the cost of any storage device necessary to provide electronic records.

(c) The Watermaster shall maintain a website.

(d) Subject to protection of information not subject to disclosure by order of the Court, the Watermaster shall publish those records and other matters that it deems to be of interest to the Parties, the general public, or the Court on its website.

2.8 Watermaster Meetings and Notice. The Watermaster shall hold meetings and provide notice of such meetings as provided for in the Judgment and these Rules and Regulations. Unless contrary to the provisions of the Judgment or the body of these Rules and Regulations, the Watermaster Board agrees to use best efforts to conduct its proceedings in conformance with the Governance Charter attached hereto as Exhibit A.

2.8.1 Regular Meetings. The Watermaster Board will conduct regular meetings at least quarterly. Unless otherwise specified, regular meetings shall be held at the principal office of the Watermaster or such other location designated by the Watermaster Board at such time(s) as specified in the necessary notice(s) thereof. The Watermaster shall provide electronic notice of any changes in the time or place of scheduled or regular meetings to all persons that request such notice.

2.8.2 Special Meetings. Special meetings may be called at any time by delivering notice thereof at least twenty-four (24) hours before the time of such meeting. The Watermaster Board shall ensure all special meetings are conducted in substantial accordance with the applicable provisions of the Brown Act.

2.8.3 Adjournment. Any Watermaster Board meeting may be adjourned to a time and place that is specified in the order of adjournment. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held or to be held, within twenty-four hours after the adoption of the order of adjournment.

2.8.4 Minutes; Statement of Proceedings. The secretary of the Watermaster Board (or designee) shall cause the preparation and subscription of the minutes of each Watermaster Board meeting and make available a copy thereof to all Parties and each person who has filed a request for copies of all minutes or notices in writing. The minutes shall contain a full and complete record of the proceedings of the Watermaster Board at each meeting, including the entry in full of all resolutions and of all decisions. The minutes shall constitute notice of all actions therein reported. Unless a reading of the minutes is ordered by a majority of the members of the Watermaster Board, minutes may be approved without reading. The Watermaster shall publish a copy of its minutes on the Watermaster's website.

2.8.5 Closed Sessions. The Watermaster Board may hold closed sessions when authorized by and in compliance with the Brown Act.

2.9 Voting Procedures.

2.9.1 Each member of the Watermaster Board shall have one (1) vote. No proxy or absentee voting is permitted.

2.9.2 All Watermaster decisions shall be by quorum, subject to any Supermajority Vote requirement, as described in the Judgment. A quorum is three members of the Watermaster Board.

2.10 Court Removal of Watermaster Board Members. Notwithstanding any other provisions of these Rules and Regulations, the Court retains and reserves full jurisdiction, power, and authority to remove any Watermaster, or member of the Watermaster Board, for good cause and substitute a new Watermaster or board member in place, upon its own motion or upon motion of any Party in accordance with the notice and hearing procedures set forth in the Judgment. The Court shall find good cause for the removal of a member of the Watermaster upon a showing that the Watermaster member(s) at issue has:

2.10.1 Failed to exercise its powers or perform its duties; or

2.10.2 Otherwise failed to act in the manner consistent with the provisions set forth in the Judgment or subsequent order(s) of the Court.

ARTICLE III

WATERMASTER TECHNICAL ADVISORY COMMITTEE

3.1 Authorization; Composition. Pursuant to the Judgment, a committee of representatives shall be organized to act as a Technical Advisory Committee (TAC).

3.2 Compensation and Expenses. The TAC members shall serve without compensation or reimbursement of expenses by Watermaster.

3.3 Powers and Functions. The TAC shall have the powers and duties described in the Judgment.

3.4 Advisory Committee's Rules and Regulations. Subject to section 3.5, procedures regarding organization, meetings, and other activities of the TAC shall be at the discretion of the TAC, with oversight by the Watermaster.

3.5 TAC Duties. The TAC shall:

3.5.1 Meet on a regular basis as described in the Judgment;

3.5.2 Review Watermaster's activities within the subject matter expertise described in the Judgment on at least a semi-annual basis; and

3.5.3 Make recommendations based on best science and data collected, consistent with the provisions of the Judgment, regarding the matters described in the Judgment and other matters as directed by the Watermaster.

ARTICLE IV

WATERMASTER TECHNICAL CONSULTANT

4.1 Selection. The Watermaster Board shall select the Watermaster Technical Consultant, who may also serve as the Watermaster Executive Director, with the advice of the TAC through the process described in the Judgment.

4.2 Duties.

4.2.1 Performance of Duties. In exercising its powers and fulfilling its duties, the Watermaster Technical Consultant shall rely on and use the best available science, records, and data to support the implementation of the Judgment and these Rules and Regulations.

4.2.2 Monitoring Sustainable Yield. The Watermaster Technical Consultant shall monitor production and related data and conduct Borrego Valley Hydrologic Model (BVHM) model runs as required by the Judgment, and include them in the Annual Report.

4.2.3 Reduction in Groundwater Pumping. The Watermaster Technical Consultant shall ensure that any required reductions of groundwater pumping take place pursuant to the terms of the Judgment and any orders by the Court.

4.2.4 Measuring Devices, Etc. The Watermaster Technical Consultant shall propose, and the Watermaster Board shall adopt and maintain, rules and regulations regarding metering and data collection consistent with the provisions of the Judgment.

4.2.5 Hydrologic Data Collection. The Watermaster Technical Consultant shall:

(a) Operate, and maintain wells, measuring devices, and/or meters necessary to monitor stream flow, precipitation, groundwater levels, and Management Areas as directed by the Judgment and the Watermaster and in compliance with the terms of any Entry Agreement required by the Judgment or by order of the Court, and cooperate with those who own and operate other wells and measuring devices to obtain the necessary data; provided, that the Watermaster Technical Consultant need not conduct such activities to the extent such data is reasonably available through other means, including but not limited to through meters installed on private wells that report data to Watermaster telemetrically; and

(b) Obtain such other data as may be necessary to carry out the Judgment and GMP, in compliance with the terms of the Judgment.

4.2.6 Pumping Reports. The Watermaster Technical Consultant shall require each Party to file an annual pumping report with the Watermaster. Pumpers shall prepare the pumping reports in a form prescribed by the Watermaster consistent with the provisions of the

Judgment. Such pumping reports shall be prepared in accordance with any relevant orders of the Court.

4.2.7 Data, Estimates and Procedures. The Watermaster Technical Consultant shall rely on and use the best available science, records, and data to support the implementation of the Judgment, including BVHM model runs. Where actual records of data are not available, the Watermaster Technical Consultant shall rely on and use sound scientific and engineering estimates. The Watermaster Technical Consultant may use preliminary records of measurements and, if revisions are subsequently made, may reflect such revisions in subsequent accounting.

4.2.8 Annual Report Procedure. The Watermaster Technical Consultant shall prepare an Annual Report containing the information set forth in Section IV.E(5)(b) of the Judgment for filing with the Court not later than April 1 of each Year, beginning April 1, 2021. Prior to filing the Annual Report with the Court, the Watermaster shall notify all Parties that a draft of the Annual Report is available for review by the Parties. The Watermaster shall provide notice to all Parties of a public hearing to receive comments and recommendations for changes in the Annual Report. At the hearing, the Watermaster will receive comments and recommendations for changes in the report. The notice of public hearing may include such summary of the draft Annual Report as the Watermaster may deem appropriate. The Watermaster shall distribute the Annual Report to any persons requesting copies and providing an email address for receipt of such Annual Report.

4.2.9 Five Year Reports. Per Water Code, section 10733.8, the Watermaster Technical Consultant shall prepare and present to the Watermaster Board for approval any five-year updates to the Groundwater Management Plan required by SGMA/DWR consistent with the terms of the Judgment.

4.2.10 Additional Technical Duties and Undertakings. The Watermaster Technical Consultant shall perform such additional technical duties and undertakings as assigned by Watermaster following input and recommendations from the tac prior to such assignment.

ARTICLE V MONITORING

5.1 Monitoring. By March 31, 2020, all Parties shall install approved meters on their wells for monitoring pumping and submit proof thereof to the Watermaster. The Watermaster or its designee shall provide forms to submit proof of meter installation. Each Party shall bear the cost of installing and maintaining meter(s) on each of its wells.

5.2 Meters. Approved meters are required, such as the SWIIM meter system that can electronically transmit water pumping and other data to the Watermaster in real time on a schedule as determined by the Watermaster, and include calibration by a qualified professional that the well owner will submit annually to the Watermaster. Upon installation and annually thereafter, each pumper shall arrange for the manufacturer or qualified installer of such meters to provide written verification to the Watermaster of the ongoing accuracy of the meter readings and meter calibration, as well as verification that there are no valves or other devices upstream of

the meter that could lead to pumped water being diverted before being read by the meter. The meter shall be accessible and installed according to good design practices. The Watermaster or its designee shall assist any Party having any question as to installation requirements.

5.3 Interim Meter Tests. Should a Party discover that the meter which measures the water pumping from any of the Party's wells is measuring inaccurately, the Party must immediately notify the Watermaster of the problem, and have the meter repaired within thirty (30) calendar days after discovery of the problem. Upon completion of such repair, the repaired meter shall be tested and sealed by any meter tester authorized by the Watermaster, as provided in these Rules and Regulations. Results of such meter tests shall be furnished to the Watermaster within ten (10) business days after testing.

5.4 Estimation of Pumping Due to Meter Maintenance. When pumping must be estimated due to lack of accurate meter measurements for any reason, the Watermaster or the Watermaster Technical Consultant must approve the method of estimation. A copy of the estimate calculations shall be supplied to the Watermaster.

5.5 Pumping Reports. The pumping reports described in Rule 4.2.6 shall be submitted to the Watermaster no later than December 15 of each Year.

ARTICLE VI

ASSESSMENTS

6.1 Assessments. The Watermaster's administrative budget shall be funded through the procedure described in the Judgment.

6.2 Delinquent Assessment Payments. Any assessment which becomes delinquent shall bear interest at the rate described in Water Code section 10730.6(b). This interest rate shall apply to any said delinquent assessment from the due date thereof until paid.

6.3 Levy. Unpaid Pumping Assessments and Overproduction Penalty Assessments will be recoverable as a lien against the parcel to which BPA is assigned and may be foreclosed in the manner provided by law. In addition, unpaid Pumping Assessments and Overproduction Penalty Assessments may be collected on the County property tax rolls, as allowed by law for public water agencies. The delinquent assessment, together with interest thereon, costs of suit, attorneys' fees and reasonable costs of collection, including obtaining a lien on the property, may also be collected pursuant to:

- (a) Motion by the Watermaster giving notice to the delinquent Party only;
- (b) Order to show cause proceeding, or
- (c) Such other lawful proceeding as may be instituted by the Watermaster or the Court.

6.4 Delinquent Assessment List. The Watermaster shall annually certify a list of all such unpaid delinquent assessments.

6.5 Assessment Accounting. The Watermaster shall account for receipt of all collections of assessments collected pursuant to the Judgment.

6.6 Payment of Assessments Pending Review. Payment of assessments levied by the Watermaster hereunder shall be made pursuant to the time schedule set forth in Sections IV.E(3) and V of the Judgment.

6.7 Assessment Adjustments. The Watermaster shall make assessment adjustments in whole or in part for assessments to any Party as a result of erroneous pumping reports or otherwise as necessary for the reporting period as either a credit or debit in the next occurring assessment invoice unless otherwise decided by the Watermaster. Assessment adjustments may be necessary due to overstated pumping, understated pumping, or errors in the assessment invoice discovered after the assessments have been approved.

EXHIBIT A: GOVERNANCE CHARTER

To achieve the mission of the Watermaster, Board members agree to the following goals for working together and membership on the Board:

- Commit to finding solutions for the common good to reduce critical overdraft in the Basin;
- Commit to the SGMA deadline of 2040 for reaching Sustainable Yield;
- Commit to working openly, honestly, and collaboratively with other Board members;
- Understand that different stakeholder interests must be considered to adequately evaluate all reasonable scenarios for resolving the overdraft; and
- Board members shall be principals or affiliates, not hired representatives of specific interests.

Section A – Unless otherwise directed by a Consensus of the Watermaster Board, Robert's Rules of Order govern the operation of the Board in all cases not covered by this Governance Charter, though the Board may formulate specific procedural rules of order to govern the conduct of its meetings.

Section B – Meetings shall be held under the following discussion goals:

- Focus on the future as much as possible.
- All perspectives are valued. You are not required to defend your perspective, but you are asked to share it and to provide supporting rationale.
- All ideas have value. If you believe another approach is better, offer it as a constructive alternative.
- Everyone will have an equal opportunity to participate.
- Everyone will be encouraged to talk.
- One person speaks at a time.
- No side conversations.
- View disagreements as problems to be solved rather than battles to be won.
- Avoid ascribing motives to or judging the actions of others. Please speak about your experiences, concerns, and suggestions. Treat each other with respect.
- Avoid right-wrong paradigms.
- When communicating outside of a Watermaster Board meeting, Members are asked to speak only for themselves when asked about Watermaster activities unless there has been an official decision made by Watermaster consistent with the terms of the Judgment and these Rules and Regulations.

Section C – No vote of the Board shall be considered as reflecting an official decision of the Watermaster unless a vote was taken at a meeting conducted in compliance with the Judgment.

Exhibit "6"

Water Rights Restrictive Covenant Forms

Attached

EXHIBIT 6.1

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

(Space Above for Recorder's Use)

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
(WATER ALLOCATION RESULTING FROM SALE OF LAND AND GRANTOR'S
RESERVATION OF ALL OR A PORTION OF BPA FOR USE ON OTHER LAND)**

This DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS (WATER ALLOCATION) ("***Restrictive Covenant***") is made this ____ day of _____, 20__, by _____ ("***Declarant***").

RECITALS

WHEREAS, Declarant is the sole owner in fee simple of certain real property legally described on Exhibit "A" and depicted on Exhibit "B" attached hereto and incorporated herein by this reference (the "***Restricted Property***"), which consists of approximately ____ acres in the County of San Diego, State of California.

WHEREAS, Declarant is a party to that certain judgment comprehensively adjudicating all rights to extract water from, or store water within, the Borrego Springs Subbasin entered in _____ v. _____, San Diego County Superior Court Case No. _____ recorded as Document No. _____ in the Official Records of the Office of the County Recorder, County of San Diego ("***Official Records***") ("***Judgment***").

WHEREAS, pursuant to the Judgment, Declarant owns a Baseline Production Allocation of ____ acre-feet per year ("***BPA***") for use on the Restricted Property, which is Declarant's initial allowed total annual extraction quantity of water from the Borrego Springs Subbasin.

WHEREAS, following recordation of this Restrictive Covenant, Declarant intends to convey fee title to the Restricted Property to _____ ("***Grantee***") subject to the covenants, conditions and restrictions described below and set forth in the deed to be recorded for conveyance of the Restricted Property to Grantee.

WHEREAS, upon recordation of the deed conveying fee title to the Restricted Property to Grantee and notice to the Watermaster pursuant to the Judgment, [all] [__ acre-feet per year] of the BPA ("***Retained BPA***") shall be severed from the Restricted Property and ownership of

the Retained BPA shall remain in [NAME OF DECLARANT] and be assigned to the Benefited Property (defined below) overlying the Borrego Springs Subbasin, as described below.

WHEREAS, Declarant is recording this Restrictive Covenant against the Restricted Property to restrict pumping of groundwater from the Restricted Property consistent with the terms of the Judgment.

RESTRICTIONS

NOW THEREFORE, in consideration of the above recitals which are incorporated herein by this reference, Declarant hereby covenants, agrees and declares that the Restricted Property shall be held, transferred, conveyed, leased, occupied, used or otherwise disposed subject to the following covenants, conditions and restrictions, which shall run with the Restricted Property or any portions into which it may be divided, and shall be binding upon and burden the Restricted Property, successor owners, administrators, assigns, lessees and other occupiers and users of the Restricted Property, or any portion thereof, and all parties having or acquiring any right, title or interest in the Restricted Property, or any portion thereof, and their successors and assigns, and shall inure to the benefit of the Benefited Parties (defined below), their successors and assigns, and the Benefited Property (defined below). The following covenants, conditions and restrictions are imposed upon the Restricted Property and every part thereof as a servitude in favor of [NAME OF DECLARANT] and the Benefited Property and every portion thereof as the dominant tenement or tenements. Grantee, and all parties having or acquiring any right, title or interest in the Restricted Property, or any portion thereof, and their successors and assigns, by accepting title to the Restricted Property shall be deemed to acknowledge and agree to all of the covenants, conditions and restrictions as set forth in this Restrictive Covenant.

1. Upon recordation of the deed conveying fee title to the Restricted Property to Grantee and notice to the Watermaster pursuant to the Judgment:

A. The BPA that is not retained by Declarant and is thus conveyed with the Restricted Property to Grantee for the benefit of the Restricted Property is ___ acre-feet per year ("**Remaining BPA**"). "Pumping" of "Groundwater", as defined in the Judgment, from the Restricted Property is limited to the Remaining BPA, except for Pumping as a "De Minimis Pumper", as defined in the Judgment. Except for Pumping of Groundwater as a De Minimis Pumper, any Pumping of Groundwater from the Restricted Property in excess of the Remaining BPA is prohibited unless an allocation of Groundwater is subsequently acquired for the benefit of the Restricted Property by way of lease or permanent transfer of Groundwater allocation approved in accordance with the terms of the Judgment. Except as specifically allowed in this Section 1(A), or under a duly approved lease or permanent transfer of water allocation approved in accordance with the Judgment, the following uses are expressly prohibited on the Restricted Property:

- (i) pumping, producing, extracting and/or using Groundwater located in or under the Restricted Property or any portion thereof in excess of the Remaining BPA, or
- (ii) installing, maintaining, using, repairing, relocating or replacing any production well(s) in or on the Restricted Property except for the purpose of Pumping as a De Minimis Pumper, Pumping the remaining BPA or Pumping Groundwater allocation acquired for the Restricted Property by way of lease or permanent transfer in accordance with the terms of the Judgment.

B. [NAME OF DECLARANT] retains ownership of the Retained BPA assigned to the Benefited Property.

2. Upon recordation of the deed conveying fee title to the Restricted Property to Grantee and notice to the Watermaster pursuant to the Judgment. [NAME OF DECLARANT] retains ownership of the Retained BPA assigned to the Benefited Property.

3. This Restrictive Covenant is for the benefit of [NAME OF DECLARANT], and of the real property legally described on Exhibit "C" and depicted on Exhibit "D", attached hereto and incorporated by this reference (the "**Benefited Property**"). The wells that will be used to Pump the Retained BPA are identified as [ENTER STATE WELL NUMBERS], which wells may be replaced from time to time with notice the Watermaster. This Restrictive Covenant may be enforced only in accordance with Section VII.A(1) of the Judgment by [NAME OF DECLARANT], by any Party to the Judgment having or acquiring any right, title or interest in the Retained BPA or in the Benefited Property, by the Watermaster appointed under the Judgment (the "**Watermaster**"), or by the Court maintaining continuing jurisdiction over the Judgment. [NAME OF DECLARANT] may assign any of its rights and powers under this Restrictive Covenant to any Party to the Judgment having or acquiring any right, title or interest in the Retained BPA or in the Benefited Property. Upon the recordation of such assignment in the Official Records of the Office of the County Recorder, County of San Diego ("**Official Records**"), such assignee, to the extent of such assignment, shall have the same rights and powers as are given to [NAME OF DECLARANT] herein.

4. This Restrictive Covenant may not be modified, terminated or rescinded, in whole or in part, except by a written instrument duly executed and acknowledged by the [NAME OF DECLARANT], with the approval of the Watermaster, and recorded in the Official Records.

5. This Restrictive Covenant shall become effective upon its recordation in the Official Records. Within thirty (30) days of the date of recordation, Grantee shall provide written notice to the Watermaster of such recordation and the transfer of the Retained BPA to the Benefited Property.

6. In the event any action shall be instituted in connection with this Restrictive Covenant, the party prevailing in such action shall be entitled to recover from the other parties all

of its costs and expenses incurred therein, including without limitation reasonable attorneys' fees as finally determined by a court of competent jurisdiction.

7. In the event that any portion of this Restrictive Covenant shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Restrictive Covenant shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

8. This Restrictive Covenant shall be given a fair and reasonable construction in accordance with the intentions of the parties and without regard for or aid from any canons requiring construction against the party drawing this Restrictive Covenant.

9. The breach of any covenants, conditions or restrictions herein contained shall not defeat, invalidate nor impair the obligation or priority of any mortgage or deed of trust now or hereafter executed and constituting a lien upon the Restricted Property or any portion thereof, which is made in good faith and for value; provided, however, that any party, including the holder of the mortgage or deed of trust, who acquires title through private or judicial foreclosure, trustee's sale or deed in lieu of foreclosure (a "***Foreclosure-Purchaser***") and all successors and assigns of such Foreclosure-Purchaser shall take title subject to all of the covenants, conditions and restrictions contained in this Restrictive Covenant.

DECLARANT

Dated: _____

By: _____

Its: _____

ACKNOWLEDGED BY WATERMASTER:

Dated: _____

By: _____

Its: _____

A notary public or other officer completing this certificate verified only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____) SS.

On _____, 2020, before me, _____, Notary Public,
personally appeared _____, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they/executed the same in his/her/their
authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

EXHIBIT 6.2

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

(Space Above for Recorder's Use)

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
(WATER ALLOCATION RESULTING FROM TRANSFER OF ALL OR A PORTION
OF BPA FOR USE ON OTHER LAND)**

This DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS (WATER ALLOCATION) ("***Restrictive Covenant***") is made this ____ day of _____, 20__, by _____ ("***Declarant***").

RECITALS

WHEREAS, Declarant is the sole owner in fee simple of certain real property legally described on Exhibit "A" and depicted on Exhibit "B" attached hereto and incorporated herein by this reference (the "***Restricted Property***"), which consists of approximately ____ acres in the County of San Diego, State of California.

WHEREAS, Declarant is a party to that certain judgment comprehensively adjudicating all rights to extract water from, or store water within, the Borrego Springs Subbasin entered in _____ v. _____, San Diego County Superior Court Case No. _____ recorded as Document No. _____ in the Official Records of the Office of the County Recorder, County of San Diego ("***Official Records***") ("***Judgment***").

WHEREAS, pursuant to the Judgment, Declarant owns a Baseline Production Allocation of ____ acre-feet per year ("***BPA***") for use on the Restricted Property, which is Declarant's initial allowed total annual extraction quantity of water from the Borrego Springs Subbasin.

WHEREAS, following recordation of this Restrictive Covenant, Declarant intends to retain fee title to the Restricted Property subject to the covenants, conditions and restrictions described below and to transfer [*all*] [*____ acre-feet per year*] of the BPA ("***Transferred BPA***") to _____ ("***Transferee***") and be assigned to the Benefited Property (defined below) overlying the Borrego Springs Subbasin, as described below.

WHEREAS, upon conveyance of the Transferred BPA to Transferee and notice to the Watermaster pursuant to the Judgment, the Transferred BPA shall be severed from the Restricted Property and ownership of the Transferred BPA shall transfer to Transferee and be assigned to the Benefited Property overlying the Borrego Springs Subbasin, as described below.

WHEREAS, Declarant is recording this Restrictive Covenant against the Restricted Property to restrict pumping of groundwater from the Restricted Property consistent with the terms of the Judgment.

RESTRICTIONS

NOW THEREFORE, in consideration of the above recitals which are incorporated herein by this reference, Declarant hereby covenants, agrees and declares that the Restricted Property shall be held, transferred, conveyed, leased, occupied, used or otherwise disposed subject to the following covenants, conditions and restrictions, which shall run with the Restricted Property or any portions into which it may be divided, and shall be binding upon and burden the Restricted Property, successor owners, administrators, assigns, lessees and other occupiers and users of the Restricted Property, or any portion thereof, and all parties having or acquiring any right, title or interest in the Restricted Property, or any portion thereof, and their successors and assigns, and shall inure to the benefit of the Transferee, its successors and assigns, and the Benefitted Property (defined below). The following covenants, conditions and restrictions are imposed upon the Restricted Property and every part thereof as a servitude in favor of Transferee, its successors and assigns, and the Benefitted Property and every portion thereof as the dominant tenement or tenements. Declarant, and all parties having or acquiring any right, title or interest in the Restricted Property, or any portion thereof, and their successors and assigns, by accepting title to the Restricted Property shall be deemed to acknowledge and agree to all of the covenants, conditions and restrictions as set forth in this Restrictive Covenant.

1. Upon the transfer of the Transferred BPA to Transferee and notice to the Watermaster pursuant to the Judgment:

A. The BPA retained for the benefit of the Restricted Property (i.e., not transferred to Transferee for the benefit of the Benefitted Property) is ____ acre-feet per year ("**Remaining BPA**"). "Pumping" of "Groundwater", as defined in the Judgment, from the Restricted Property is limited to the Remaining BPA, except for Pumping as a "De Minimis Pumper", as defined in the Judgment. Except for Pumping of Groundwater as a De Minimis Pumper, any Pumping of Groundwater from the Restricted Property in excess of the Remaining BPA is prohibited unless an allocation of water is subsequently acquired for the benefit of the Restricted Property by way of lease or permanent transfer of Groundwater allocation approved in accordance with the terms of the Judgment. Except as specifically allowed in this Section 1(A), or under a duly approved lease or permanent transfer of water allocation approved in accordance with the Judgment, the following uses are expressly prohibited on the Restricted Property:

- (i) Pumping, producing, extracting and/or using Groundwater located in or under the Restricted Property or any portion thereof in excess of the Remaining BPA, or
- (ii) installing, maintaining, using, repairing, relocating or replacing any Groundwater production well(s) in or on the Restricted Property except for the purpose of Pumping as a De Minimis Pumper, Pumping the remaining BPA or Pumping Groundwater allocation acquired for the Restricted

Property by way of lease or permanent transfer in accordance with the terms of the Judgment.

B. Transferee will be the owner of the Transferred BPA assigned to the Benefited Property.

2. This Restrictive Covenant is for the benefit of Transferee, its successors and assigns, and of the real property legally described on Exhibit "C" and depicted on Exhibit "D", attached hereto and incorporated by this reference (the "**Benefited Property**"). The wells that will be used to Pump the Transferred BPA are identified as [ENTER STATE WELL NUMBERS], which wells may be replaced from time to time with notice the Watermaster. This Restrictive Covenant may be enforced only in accordance with Section VII.A(1) of the Judgment by Transferee, its successors and assigns, by any Party to the Judgment having or acquiring any right, title or interest in the Transferred BPA or in the Benefited Property, by the Watermaster appointed under the Judgment (the "**Watermaster**"), or by the Court maintaining continuing jurisdiction over the Judgment upon a motion of any party to the Judgment. Transferee, its successors and assigns, may assign any of its rights and powers under this Restrictive Covenant to any Party to the Judgment having or acquiring any right, title or interest in the Transferred BPA or in the Benefited Property. Upon the recordation of such assignment in the Official Records of the Office of the County Recorder, County of San Diego ("**Official Records**"), such assignee, to the extent of such assignment, shall have the same rights and powers as are given to Transferee herein and under the deed to be recorded for conveyance of the BPA.

4. This Restrictive Covenant may not be modified, terminated or rescinded, in whole or in part, except by a written instrument duly executed and acknowledged by the Transferee with the approval of the Watermaster, and recorded in the Official Records.

5. This Restrictive Covenant shall become effective upon its recordation in the Official Records. Within thirty (30) days of the date of recordation, Transferee shall provide written notice to the Watermaster of such recordation and the transfer of the Transferred BPA to the Benefited Property.

6. In the event any action shall be instituted in connection with this Restrictive Covenant, the party prevailing in such action shall be entitled to recover from the other parties all of its costs and expenses incurred therein, including without limitation reasonable attorneys' fees as finally determined by a court of competent jurisdiction.

7. In the event that any portion of this Restrictive Covenant shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Restrictive Covenant shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

8. This Restrictive Covenant shall be given a fair and reasonable construction in accordance with the intentions of the parties and without regard for or aid from any canons requiring construction against the party drawing this Restrictive Covenant.

9. The breach of any covenants, conditions or restrictions herein contained shall not defeat, invalidate nor impair the obligation or priority of any mortgage or deed of trust now or hereafter executed and constituting a lien upon the Restricted Property or any portion thereof, which is made in good faith and for value; provided, however, that any party, including the holder of the mortgage or deed of trust, who acquires title through private or judicial foreclosure, trustee's sale or deed in lieu of foreclosure (a "**Foreclosure-Purchaser**") and all successors and assigns of such Foreclosure-Purchaser shall take title subject to all of the covenants, conditions and restrictions contained in this Restrictive Covenant.

[Signatures on the following page]

**Signature Page to
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
(WATER ALLOCATION)**

Dated: _____

DECLARANT

By: _____

Its: _____

ACKNOWLEDGED BY WATERMASTER:

Dated: _____

By: _____

Its: _____

A notary public or other officer completing this certificate verified only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2020, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they/executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

Exhibit "7"

Process for Selecting Watermaster Public/Community Representative

Representatives on the GSP Advisory Committee, as of June 1, 2019, representing BWD Ratepayers, Borrego Springs Community Sponsor Group, Anza-Borrego Desert State Park, and Borrego Valley Stewardship Council shall nominate a minimum of two candidates and preferably three candidates, and the Borrego Unified School District shall nominate one candidate, to serve as the potential public/community representative for the Watermaster. The public representative will be at a minimum (i) a full-time resident of Borrego Springs for at least nine months of the year, (ii) a Borrego voter living on real property overlying the Basin, (iii) a community member as opposed to a government agency employee, and (iv) familiar with the Judgment and Groundwater Management Plan. BWD shall conduct a public forum during which members of the Watermaster Board may ask questions of the candidates. Members of the public may also ask questions of the candidates during such forum. After the conclusion of the public forum, the BWD shall select the community representative from among the candidates during the open session of a public meeting of the BWD Board of Directors.

If, for any reason, one of the selecting organizations cease to exist, the other selecting organizations described herein may ask another public entity with community-wide planning interests to participate in the selection of the slate of candidates.

If for any reason the selection of a slate of candidates or the selection of a public representative as described above cannot be made, the Court shall appoint a full-time resident of Borrego Springs for at least nine months of the year who is also a voter living on real property overlying the Basin to represent the public on the Board. However, in no circumstance shall this appointed member be a current member of the BWD Board or BWD staff.

Process for Selecting Watermaster Recreational Sector Representative

On the Watermaster Board there will be one representative and one alternate that are selected from the Golf Course (GC) Owners. For purposes of selecting the representative and the alternate, each GC Owner will be afforded an opportunity to vote for the representative, with each GC Owner's vote weighted proportionately by the amount of total BPA held by such GC Owner and any of its affiliates. The representative will be the individual receiving the highest vote and the alternate will be the individual receiving the second highest vote. After the vote for the initial recreational sector representative, there will be subsequent votes held In December 2025 and every five years thereafter.

GC Owners are:

1. Parties to the Judgment,
2. Who own Baseline Pumping Allocation (BPA), and
3. Who own or operate a commercial golf course that overlies the Basin.

At the time of the Judgment, the following golf courses overly the Basin:

- a. Borrego Springs Resort
- b. Club Circle / Circle Club
- c. De Anza Country Club
- d. Rams Hill Golf Club
- e. Road Runner Golf and Country Club
- f. The Springs at Borrego Springs RV Resort and Golf Course

Process for Selecting Watermaster Agricultural Sector Representative

On the Watermaster Board there will be one representative and one alternate representing the agricultural sector Parties (AG Parties) selected by vote of the AG Parties. For purposes of selecting the AG Parties representative and alternate, each AG Party will be afforded an opportunity to vote for the AG Parties representative, with each AG Party's vote weighted proportionately by the amount of total BPA held by such AG Party and any of its affiliates. The representative will be the individual receiving the highest vote and the alternate will be the individual receiving the second highest vote.

AG Parties are:

1. Parties to the Judgment,
2. Who own Baseline Pumping Allocation (BPA), and
3. Who own or operate a commercial agricultural operation that overlies the Basin, defined as any agricultural business or trade activity, including farms, nurseries, and orchards, that produce crops or plants with the intent to make a profit.

The individual serving as the AG Parties representative and/or the individual serving as the AG Parties alternate may be replaced at any time by the same procedure specified above.

Exhibit "8"

Entry Agreement Form

Attached

ENTRY PERMIT

This Entry Permit is dated as of _____, 20__, and is made by _____ ("**Property Owner**") and the Borrego Valley Groundwater Basin Watermaster ("**Watermaster**") appointed under that certain Borrego Springs Subbasin Stipulated Judgment entered in _____ v. _____, San Diego County Superior Court Case No. _____, dated _____, 20__ ("**Stipulated Judgment**"). Where appropriate, Property Owner and Watermaster are referred to collectively as "Parties" and individually as "Party." References to a Party include, bind, and inure to the benefit of that Party's Boardmembers, officers, agents, employees, success in interest and assigns.

RECITALS

A. Property Owner is the owner of that certain real property commonly known as Assessor's Parcel Number(s) _____ within the County of San Diego, depicted on Exhibit "A" attached hereto and incorporated herein by reference ("**Property**").

B. Property Owner is a party to the Stipulated Judgment. The Stipulated Judgment contemplates [*specify purpose for entry, i.e., regular water quality monitoring of certain wells under the approved water quality monitoring plan attached hereto as Exhibit "B" and incorporated herein by reference ("**Water Quality Monitoring Plan**")*]. Watermaster has requested that Property Owner provide access to [*specify location on property, i.e., the well(s) ("**Well(s)**") located on the portion of the Property referenced as the "**Well Site**" on Exhibit "A"*] so that Watermaster may [*specify activities, i.e., take water quality samples from the Well(s) under the Water Quality Monitoring Plan*] pursuant to the terms of this Permit (the "**Activities**").

C. The Property is used by Property Owner for residential, commercial or other business purposes, including but not limited to extensive agricultural business uses. Unrestricted entry by Watermaster could interfere with those uses and expose Property Owner, and Property Owner's agents, employees and invitees, Watermaster's employees and contractors, and others on the Property to risk of injury.

D. Property Owner desires to allow Watermaster to enter onto the [*specify location on property, i.e., Well Site*] as necessary for Watermaster to access the [*specify what is being monitored, i.e., Well(s)*] and carry out the Activities pursuant to the terms of this Permit.

TERMS

This Entry Permit is issued subject to the following terms and conditions:

1. Purpose and Scope.

(a) For the Term of this Permit, as defined in Section 2 below, Property Owner hereby provides Watermaster a limited, non-exclusive license to enter onto the [Well Site], under the terms and conditions set forth in this Entry Permit, solely in order to carry out the Activities.

(b) Only Watermaster's employees and contractors covered by Watermaster's or such contractors' comprehensive liability insurance, automobile insurance and workers compensation insurance consistent with the requirements of Section 7 below are permitted to enter the Well Site and conduct the Activities.

(c) Watermaster shall not enter onto the [Well Site] other than as necessary to conduct the Activities and shall not enter onto any other portion of the Property. Watermaster's request to enter onto any other portions of the Property in connection with Activities shall be considered by the Property Owner on a case by case basis and shall be subject to a new written permit agreement with Property Owner.

(d) Each entry shall be limited to the hours between _____ a.m. and _____ p.m., Monday through Friday, excluding holidays, unless otherwise agreed to in advance and in writing by Property Owner.

(e) At the sole election of Property Owner, Property Owner or its representative may accompany Watermaster in any or all of the Activities. Upon Property Owner's request, Watermaster shall provide a split sample to Property Owner or its representative without cost to the Property Owner. Property Owner shall have no responsibility or obligation whatsoever in connection with the Activities, except as provided in Section 6 below.

(f) If the Activities include any survey, test or other investigation, Watermaster shall provide Property Owner a copy of the results of the Activities within ten (10) calendar days after the draft results are first made available to Watermaster and prior to their publication, without cost to the Property Owner.

(g) Failure to comply with the terms and conditions contained herein shall be cause for immediate termination of this Entry Permit.

2. Term of this Entry Permit.

(a) The term of this Entry Permit shall commence upon its full execution by the Parties (the "**Effective Date**") and shall remain in effect through _____, 20__ (the "**Termination Date**").

(b) Watermaster's entry and the Activities must cease on the Termination Date.

(c) The Parties' rights and obligations under Sections 4, 6, 7, 8, 9, 10, 11, 18 and 19 below shall survive the termination of this Entry Permit and continue in effect until all claims against the Property Owner, Watermaster and the Property related to this Entry Permit are absolutely barred by the applicable statutes of limitation.

3. Notice of Entry.

(a) Watermaster shall notify Property Owner by telephone _____ and email _____, at least seventy-two (72) hours prior to each entry onto the [Well Site]. The notice shall contain all of the following information:

- 1) The date, time and duration of the entry;
- 2) The Watermaster personnel who will be conducting the Activities during the entry; and
- 3) Watermaster's certification that the Watermaster personnel who will be conducting the Activities have been provided with a copy of this Entry Permit and are covered by Watermaster's comprehensive liability insurance, automobile insurance and workers compensation insurance.

4. Government Permits and Authorizations.

Watermaster shall comply with all Applicable Legal Requirements (defined in Section 10 below) and shall be solely responsible for and obtain at its expense all governmental permits and authorizations required by all Applicable Authorities (defined in Section 10 below) for Watermaster to perform the Activities and the restoration of the Property pursuant to this Entry Permit.

5. Non-Interference with Property Owner's Use of Property.

(a) Watermaster shall not modify the Property or the [Well(s)] without the Property Owner's prior written consent. No ground disturbances are permitted without the Property Owner's prior written consent.

(b) Watermaster's entry upon and use of the [Well Site] shall at all times be subject to the rights of Property Owner to use the Property and the [Well(s)] located thereon. Watermaster shall not interfere with or disrupt the residential, agricultural, commercial or other business activities on the Property, and shall not endanger the health, safety or welfare of the Property Owner or Property Owner's agents, employees, invitees, or Watermaster's employees or contractors, or others on the Property.

6. Assumption of Risk, Release and Indemnity.

(a) Watermaster assumes all risk of loss, damage and injury to itself, its employees and contractors which in any manner may arise out of entry upon or use of the Property under this Entry Permit. Property Owner shall not have any liability to Watermaster, its employees or contractors or to any insurer, by way of subrogation or otherwise, on account of any loss, damage or injury to Watermaster's property, or to Watermaster's employees or contractors, regardless of whether such loss or damage is caused by any negligence of Property Owner or Watermaster, unless Watermaster affirmatively demonstrates that Property Owner acted with willful misconduct, and that such willful misconduct is the proximate cause of such loss, damage or injury. Any award of damages following such a showing of willful misconduct

shall be limited to the actual amount of the monetary injury. If any dispute is not resolved following compliance with the dispute resolution procedures specified in Section VII.A of the Judgment, either Party may seek declaratory relief, specific performance and/or monetary damages for willful misconduct in accordance with the procedures set forth in Section VII.A of the Judgment, but no other remedies in law or equity.

(b) Watermaster shall keep the Property free of mechanic's liens and claims resulting from or in any way related to Watermaster's entry onto the property or the Activities. Watermaster shall defend Property Owner and the Property against, and indemnify and hold Property Owner and the Property harmless from all liens, claims, losses, liabilities and expenses asserted against or incurred by the Property Owner or the Property and caused by Watermaster's entry or the Activities or in any way related to such entry or Activities, including the actual expense of legal representation whether by special counsel or by Property Owner's attorneys, and expert witness fees, arising out of or resulting from injury to or death of any person, or damage to any property or damage to any other interest of Property Owner, including, but not limited to, suit alleging noncompliance with any applicable Legal Requirements by Watermaster. Watermaster's duty to defend as described above shall arise immediately upon the making of any claim, the assertion of any cause of action, the initiation of any regulatory proceeding or other action against Property Owner, and shall not be dependent upon a finding of any wrongdoing or fault on the part of Watermaster. The Parties' rights and obligations under this Section 6 shall survive termination of this Entry Permit and shall continue until all claims against Property Owner, Watermaster, and the Property are absolutely barred by the applicable statutes of limitation.

7. Insurance.

(a) Scope of Insurance. Watermaster shall, prior to any entry onto the Property, acquire and keep in full force and effect comprehensive liability insurance with a combined single limit coverage limit of not less than Two Million Dollars (\$2,000,000.00) covering bodily injury, personal injury, death and property damage liability per occurrence and in the aggregate, insuring the Property Owner against any and all liability with respect to or arising out of the entry or Activities. No policies issued on a "claims made" basis will be acceptable and no policies will have any deductible provision in excess of five percent (5%) of the total coverage maintained by the Watermaster. Watermaster shall also obtain and maintain all automobile and workers compensation insurance required by law with respect to the Activities. Watermaster shall provide the Property Owner with a certificate evidencing such coverage prior to Watermaster's entry onto the Property.

(b) Policy Form. All such liability insurance policies shall name the Property Owner as an additional insured. All public liability, property damage, and other casualty policies shall be written as primary policies and any insurance carried by the additional insureds on such policies shall not be contributing with such policies. All policies of insurance under this Entry Permit shall be issued by reputable insurance companies with general policy holder's ratings of not less than A-, and which are qualified to do business in California.

(c) Blanket Policies. Notwithstanding anything to the contrary contained in this Section 7, Watermaster's obligation to carry insurance may be satisfied by coverage under a

so-called blanket policy of insurance, provided, that the requirements set forth in this Section 7 are otherwise satisfied.

(d) Failure by Watermaster to Maintain Insurance. If Watermaster fails to secure and maintain insurance policies complying with the provisions of this Section 7, then the Property Owner may secure the appropriate insurance policy or policies, and Watermaster shall pay, upon demand, the cost of same to the Property Owner, plus a service fee equal to fifteen percent (15%) of the total annual premium cost of the policy or policies.

8. Remedies.

(a) If the Property suffers any damage by reason of the acts or omissions of Watermaster, Watermaster shall be solely responsible for restoring the Property to its condition existing immediately prior to the occurrence of such damage to the satisfaction of the Property Owner, and shall compensate the Property Owner for any damages caused by reason of the acts or omissions of Watermaster, including but not limited to the market value of any crops damaged or destroyed by Watermaster.

(b) Watermaster shall be liable to Property Owner for all damage to any person or property which in any manner may be caused by Watermaster. Property Owner's remedies for any such damage shall include, without limitation:

1) requiring that Watermaster immediately pay for the cost of repair and other losses to Property Owner (including without limitation, consequential damages) caused by Watermaster; and

2) requiring that Watermaster restore any damaged property, including without limitation the Property Owner's [Wells], to a condition as near as reasonably possible to that which existed immediately prior to Watermaster's entry. If Property Owner elects to require that Watermaster make such repairs and restoration and Watermaster does not timely perform such repairs and restoration, then Watermaster shall be liable to Property Owner for the cost of restoring the damaged property to such condition, and shall further be liable to Property Owner for all damages (including, without limitation, consequential damage) resulting from Watermaster's activities on the Property, and any and all associated costs Property Owner incurs in its related restoration/repair activities.

9. Removal of Materials.

(a) Watermaster hereby warrants and represents that it will not cause the presence, use, storage or disposal of any Hazardous Substances (defined in Section 10 below) on or about the Property without the prior written consent of Property Owner. Excluded from this provision are substances necessary to carry out the Activities, provided that said substances are labeled, packaged, stored, contained, handled, managed, transported, documented and disposed of by Watermaster in full compliance with all Applicable Legal Requirements.

(b) Any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the Applicable Legal Requirements that Watermaster releases to the Property must be removed and properly disposed of by Watermaster

in compliance with the Applicable Legal Requirements and all negative impacts remediated at the sole expense of Watermaster. Said remediation shall restore the Property to the condition existing immediately prior to the Effective Date of this Entry Permit.

(c) Watermaster agrees to immediately notify Property Owner when Hazardous Substances have been released on the Property. Watermaster further agrees to properly notify all Applicable Authorities in the event of a release of Hazardous Substances on the Property. If Watermaster discovers any materials suspected to be hazardous in nature in or around the Watermaster's work area during the course of its Activities, it shall halt all Activities until Property Owner, or its agent, can determine the nature of the material and the proper remediation, if any, that is required.

(d) All conditions and stipulations of this Section 9 shall be carried out to the satisfaction of both Property Owner and the California Regional Water Quality Control Board — Colorado River Region.

(e) Failure by Watermaster to comply with any of the above provisions within ninety (90) days of written notification of default shall give Property Owner authority to have said default cured and remediated, and Watermaster agrees to pay Property Owner all direct and indirect costs of said default.

(f) The Parties' rights and obligations under this Section 9 shall survive the termination of this Entry Permit and continue in effect until all claims against the Property Owner, Watermaster and Property related to this Entry Permit are absolutely barred by the applicable statutes of limitation.

10. Defined Terms.

For purposes of this Entry Permit, the following capitalized terms shall be defined as follows:

(a) Applicable Authorities: The Court administering the Stipulated Judgment, County of San Diego and any other applicable federal, state, regional or local governmental or quasi-governmental agency, body or authority having jurisdiction over the Property or the Water Quality Monitoring Plan.

(b) Applicable Legal Requirements: Environmental Laws (as defined below), Stipulated Judgment, and any other statutes, ordinances, rules, codes, requirements, permits, regulations, standards (including any standards or requirements now or hereafter applicable to residential use or development of the Property), judgments, orders, writs, injunctions or decrees or the like, of Applicable Authorities.

(c) Environmental Laws: Any federal, state, regional or local statute, regulation, ordinance, rules, codes, requirements, permits, standards or requirements (including any standards or requirements now or hereafter applicable to residential use or development of the Property), judgments, regulations, orders, writs, injunctions or decrees or the like, relating to environmental conditions on, under or about the Property that could affect use or development of the Property for residential purposes, including, without limitation, soil and groundwater conditions underlying the Property, and environmental conditions pertaining to wetlands, waters

of the United States, waters of the State of California, and listed state- or federally-, threatened or endangered species.

(d) Hazardous Materials: Any materials or substances (a) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code; (b) defined as a "hazardous substance" under Section 26316 of the California Health and Safety Code; (c) defined as a "hazardous material," "hazardous substance" or "hazardous waste" under Section 25501 of the California Health and Safety Code, or under Section 25281 of the California Health and Safety Code; (d) petroleum or any other hydrocarbonic substance or by-product; (e) asbestos, PCBs, and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; (f) polychlorinated biphenyls; (g) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code; (h) designated as a "hazardous substance" pursuant to the Clean Water Act (33 U.S.C. § 1251 et seq.); (i) defined as a hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 6901 et seq.); (j) listed by the State of California as a chemical known by the State to cause cancer or reproductive toxicity pursuant to Section 25249.8(a) of the California Health and Safety Code; or (k) found to be a pollutant, contaminant, toxic or hazardous waste or toxic or hazardous substance by any Applicable Authorities or in any reported decision of a federal or state court, or which may give rise to liability under any federal or state common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court.

11. Successors and Assigns.

Watermaster shall not assign any of its rights under this Entry Permit without the prior written consent of Property Owner, which consent may be withheld for any reason or for no reason. Any assignment by Watermaster of this Entry Permit shall not release Watermaster from its obligations under this Entry Permit without an express release executed by Property Owner.

12. Authorized Signatories.

The individuals executing this Entry Permit represent and warrant that they are authorized to execute this permit entry on behalf of the Party for whom each individual purports to sign and that when executed and delivered to the Parties, this Permit shall be a valid and binding obligation of the Parties.

13. No Business or Agency Relationship.

Property Owner and Watermaster acknowledge and agree that (i) nothing contained in this Entry Permit shall be construed to constitute the Parties as participants in a joint or common undertaking, (ii) nothing contained in this Entry Permit shall create any agency relationship between Property Owner and Watermaster, and (iii) no Party shall have any right or authority to act on behalf of the other Party.

14. No Third Party Beneficiary.

This Entry Permit is not intended for the benefit of any third party and shall not be enforceable by any party who is not a Party.

15. Counterparts.

This Permit may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Entry Permit.

16. Waiver of Covenants and Conditions; No Waiver of Claims.

No covenant, condition, right or remedy under this Entry Permit shall be waived unless the waiver is in writing and signed by the Party claimed to have made the waiver. One waiver shall not be interpreted as a continuing waiver. The waiver by one Party of the performance of any covenant or condition under this Entry Permit shall not invalidate this Entry Permit nor shall it be considered a waiver by it of any other covenant or condition under this Entry Permit. By entering into this Entry Permit, Property Owner does not waive any legal rights with respect to potential claims or causes of action Watermaster has (or may have in the future) against Watermaster or against any other person or entity not a Party to this Entry Permit and all such claims are expressly reserved.

17. Governing Law.

The interpretation and enforcement of this Entry Permit shall be governed by the laws of the State of California. This Entry Permit shall be interpreted to give effect to its fair meaning and shall be construed as though it was prepared by both Parties. This Entry Permit contains the entire agreement of the Parties with respect to Watermaster's entry on and investigation of the Property, and all prior negotiations, documents, and discussions regarding the Watermaster's entry and Activities herein are superseded by this Entry Permit. Section headings in this Entry Permit are for convenience only and shall not be used in interpreting its provisions.

18. Venue.

Any controversy or claim arising out of or relating to this Entry Permit, or the breach thereof, shall be brought in the Court administering the Stipulated Judgment in the manner specified in Section VII.A of the Stipulated Judgment for a party to appeal a decision by the Watermaster Board.

19. Attorney's Fees.

In the event any Party to this Entry Permit initiates proceedings to enforce the terms of this Permit, the Party not substantially prevailing in such proceedings shall pay to the substantially prevailing Party all attorneys' fees incurred by the substantially prevailing Party, together with all costs of such proceeding.

20. Severability.

In the event that any provision of this Entry Permit is deemed unenforceable, the remaining provisions shall remain in full force and effect. In the event any provision of this Entry Permit is so held invalid, the Parties shall promptly renegotiate in good faith new provisions to restore this Entry Permit as nearly as possible to its original intent and effect.

21. Notice.

Unless otherwise specified herein, all notices or other communications between the Parties required or permitted hereunder shall be in writing and personally delivered, or sent by certified United States mail, postage prepaid, return receipt requested, or sent via overnight air courier (example, Federal Express) to the following addresses:

If to Property Owner, to:

Phone: _____
Fax: _____
E-mail: _____

With a copy to:

Phone: _____
Fax: _____
E-mail: _____

If to Watermaster, to:

Phone: _____
Fax: _____
E-mail: _____

With a copy to:

Phone: _____
Fax: _____
E-mail: _____

A notice shall be effective on the date of personal delivery if personally delivered, the next business day after deposit with the overnight air courier, or two (2) business days following the date the notice is postmarked, if mailed via certified mail as set forth above. Either Party may change the address to which notice is to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

22. Watermaster Acceptance.

Watermaster shall indicate its acceptance of the terms and conditions of the permission granted under this Entry Permit by signing in the space provided below and returning the original executed copy of this Entry Permit to Property Owner.

[Signatures on the following page]

IN WITNESS WHEREOF, the Parties have caused this Entry Permit to be executed as of the latest day and year written below.

Dated: _____

WATERMASTER

By: _____

Its: _____

Dated: _____

PROPERTY OWNER

By: _____

Its: _____

EXHIBIT A
PLAT DEPICTING AND DESCRIBING PROPERTY

EXHIBIT B
WATER QUALITY MONITORING PLAN