

NOTICE OF EXEMPTION

TO: ☒ Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044	FROM: Borrego Water District (Public 806 Palm Canyon Drive Agency) Borrego Springs, CA 92004 Telephone: (760) 767-5806
☒ San Diego County Clerk 1600 Pacific Highway, Room 260 San Diego, CA 92101	

1. Project Title:	Adoption of Resolution No. 2020-01-01 of the Board of Directors of the Borrego Water District authorizing Board President to execute settlement agreement; authorizing legal counsel to file adjudication action; and authorizing staff to submit a groundwater sustainability plan alternative to the California Department of Water Resources.
2. Project Applicant:	Borrego Water District
3. Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	Borrego Springs Subbasin of the Borrego Valley Groundwater Basin
4. (a) Project Location – City and County:	Borrego Springs Subbasin of the Borrego Valley Groundwater Basin, which is located in San Diego County, and in unincorporated portions of San Diego County.
5. Description of nature, purpose, and beneficiaries of Project:	On January 7, 2020, the Board of Directors of the Borrego Water District (BWD) adopted Resolution No. 2020-01-01. The Sustainable Groundwater Management Act (SGMA) requires the Borrego Springs Subbasin (Basin) to be managed sustainably over the next twenty years and beyond. Because the California Department of Water Resources (DWR) has designated the Basin as critically overdrafted, there must be a groundwater sustainability plan (GSP), or alternative management plan, adopted and submitted to DWR by January 31, 2020. SGMA does not allow for declarations or modifications of water rights, but management of the Basin, including necessary pumping reductions/rampdown, without a quantification and declaration of water rights may be difficult and/or lead to litigation. SGMA thus recognizes that legal actions to establish groundwater rights and manage basins, or “groundwater adjudications” may occur. These adjudications are governed by statutes enacted after SGMA and allow courts to enter judgments that manage groundwater basins sustainably. Further, SGMA allows that the management of a basin pursuant to a groundwater adjudication can serve as an alternative to a GSP, if DWR approves that management structure. Accordingly, BWD negotiated with agricultural and resort community interests the potential terms of a “friendly” adjudication of water rights and management of the Basin. These negotiations have culminated in a proposed Settlement Agreement among BWD and other major pumpers and stakeholders in the Basin. The Settlement Agreement requires, among other things, that BWD file an

	Adjudication Action to manage the Basin and to submit as a GSP alternative the proposed Stipulated Judgment to be entered in the Adjudication Action for DWR to review for SGMA compliance. BWD proposes to enter into a Settlement Agreement with the significant groundwater pumpers in the Basin to resolve disputes regarding their respective groundwater rights. The Settlement Agreement provides terms for the parties to stipulate to a process that will result in a Stipulated Judgment and Physical Solution, including a Groundwater Management Plan (GMP), that will be entered in a comprehensive groundwater adjudication to be filed by BWD (Adjudication Action). The Stipulated Judgment and Physical Solution in the Adjudication Action will comprehensively determine and adjudicate all rights to pump groundwater from and store groundwater in the Basin and will provide for the sustainable management of the Basin in compliance with SGMA and the California Constitution. The Physical Solution and GMP will achieve sustainable Basin management through water trading, water conservation, pumping reductions, water quality optimization, and intra-basin water transfers. Additionally, the final judgment entered in the Adjudication Action will provide for the formation of a Watermaster, as an arm of the Superior Court, with five appointed board members, charged with administering the Judgment's terms. A Superior Court Judge would have continuing jurisdiction over the Judgment and Watermaster, and the authority to modify the Judgment as necessary and to rule on disputes not resolved locally.	
6.	Name of Public Agency approving project:	Borrego Water District
7.	Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	Borrego Water District
8.	Exempt status: (check one)	
(a)	☐ Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)
(b)	☒ Not a project.	(Pub. Res. Code § 21065; State CEQA Guidelines § 15378(a); State CEQA Guidelines § 15379))
(c)	☐ Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b),(c))
(d)	☐ Categorical Exemption. State type and section number:	
(e)	☐ Declared Emergency	(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	☒ Statutory Exemption. State Code section number:	Water Code § 10728.6
(g)	☒ Other. Explanation:	State CEQA Guidelines § 15061(b)(3) (common sense

	exemption)
9. Reason why project was exempt:	Authorizing the Board President to execute the Settlement Agreement and the related documents; authorizing legal counsel to commence the Adjudication Action; and authorizing Staff to submit the GSP alternative to DWR does not constitute a "project" subject to the California Environmental Quality Act (CEQA) because these are not activities that may cause either a direct or reasonably foreseeable indirect change in the environment. (Pub. Res. Code § 20165; CEQA Guidelines § 15378(a).) Further, the authorizations are not a project subject to CEQA because the Court (or the Watermaster. Watermaster Technical Consultant, Technical Advisory Committed under the Court's supervision) will oversee and implement the Adjudication Action and Stipulated Judgment and CEQA does "not apply to the courts of the state." (CEQA Guidelines § 15379; <i>Hillside Memorial Park & Mortuary v. Golden State Water Co.</i> (2011) 205 Cal.App.4th 534, 550-51 (West Coast Basin); <i>Calif. Am. Water v. City of Seaside</i> (2010) 183 Cal.App.4th 471, 481-82 (Seaside Basin).) Even if the authorizations are deemed a project subject to CEQA, they are exempt under California Water Code section 10728.6 as a statutorily-authorized GSP alternative. In addition, the authorizations are exempt under the "common sense exemption" because by themselves, they do not authorize or approve any project, development, or construction activity. (CEQA Guidelines § 15061(b)(3).) Accordingly, it can be seen with certainty that the authorizations will not lead to any adverse physical changes in the environment. There is no evidence that the authorizations involve any unusual circumstances that might cause a significant effect on the environment. (CEQA Guidelines § 15300.2.)
10. Lead Agency Contact Person:	Geoff Poole, General Manager
Telephone:	(760) 767-5806
11. If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.	
12. Has a Notice of Exemption been filed by the public agency approving the project? Yes ☐ No ☒	
13. Was a public hearing held by the Lead Agency to consider the exemption? Yes ☐ No ☒	
If yes, the date of the public hearing was: <u>DISTRICT PLEASE FILL IN</u>	

Signature: Geoff Poole Date: 1-7-20 Title: General Manager

Name:

☒ Signed by Lead Agency ☐ Signed by Applicant

Date Received for Filing: _____

(Clerk Stamp Here)

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

