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BORREGO WATER DISTRICT

Exempt from Filing Fees Pursuant to  
Government Code section 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

BORREGO WATER DISTRICT,  
Plaintiff,

v.

ALL PERSONS WHO CLAIM A RIGHT TO  
EXTRACT GROUNDWATER IN THE  
BORREGO VALLEY GROUNDWATER  
SUBBASIN NO. 7.024-01 WHETHER  
BASED ON APPROPRIATION,  
OVERLYING RIGHT, OR OTHER BASIS  
OF RIGHT, AND/OR WHO CLAIM A  
RIGHT TO USE OF STORAGE SPACE IN  
THE SUBBASIN; AGRI-EMPIRE; RICK  
AND JOAN ANSON, co-trustees of the  
ANSON FAMILY TRUST 08-18-08; ANZA-  
BORREGO DESERT STATE PARK; ALAN  
& TRACY ASCHE; GARY D. & DARLIS A.  
BAILEY; DAVID AND JULI BAUER, co-  
trustees of the D&J BAUER FAMILY TRUST  
11-18-04; WILLIAM M. BAUER; BORREGO  
AIR RANCH MUTUAL WATER &  
IMPROVEMENT CO.; BORREGO  
NAZARETH, LLC; BORREGO UNIFIED  
SCHOOL DISTRICT; ROLAND J. JENSEN,  
trustee of the JENSEN FAMILY TRUST 8-5-  
83; RAYMOND A. CARPENTER AND  
SUSAN R. CARPENTER, co-trustees of the  
CARPENTER FAMILY TRUST 12-11-07;  
JAMES SOMMERVILLE, trustee of the  
SOMMERVILLE TRUST 11-22-83; ROY  
BRISBOIS, trustee of the CONZELMAN

Case No.

Judge:

Deemed Verified Pursuant to Cal. Civ. Proc.  
Code § 446

BORREGO WATER DISTRICT'S  
COMPLAINT FOR COMPREHENSIVE  
ADJUDICATION OF THE BORREGO  
VALLEY GROUNDWATER SUBBASIN  
NO. 7.024-01 PURSUANT TO SECTION  
830, *et seq.* OF THE CODE OF CIVIL  
PROCEDURE; PRELIMINARY  
INJUNCTION PURSUANT TO SECTION  
847 OF THE CODE OF CIVIL  
PROCEDURE

1 FAMILY TRUST A 11-22-83; STEVEN  
2 MOHLER, trustee of the CONZELMAN  
3 FAMILY TRUST C 11-22-83; SCOTT M.  
4 CRUMRINE AND STACEY L. CRUMRINE,  
5 co-trustees of the CRUMRINE FAMILY  
6 TRUST 04-19-06; CWC CASA DEL ZORRO,  
7 LLC; DE ANZA DESERT COUNTRY CLUB;  
8 JOHN DOLJANIN; GENUS, L.P.; JOHN B. &  
9 SILVIA H. HOGAN; JM ROADRUNNER,  
10 LLC; EDWARD KITCHEN; LANCE  
11 LUNDBERG, trustee of the LUNDBERG  
12 FAMILY TRUST 10-01-98; MICHAEL  
13 MAITER & JOHN SAVITTIERI; MANUEL  
14 & ARACELI C. NAVARRO; MONICA REAL  
15 ESTATE HOLDINGS, L.P.; DOUG &  
16 PATRICIA MUNSON; RONALD PECOFF;  
17 THE ROADRUNNER CLUB AT BORREGO,  
18 LP; RTA BORREGO, LLC; JOSE G. &  
19 MARIA E. SANCHEZ; SELEY RANCHES,  
20 L.P.; SHENANDOAH GROWERS, INC.;  
21 MAX SIEFKER; BRIAN SIEFKER, trustee of  
22 the BRIAN SIEFKER TRUST 12-18-01;  
23 KENT R. SMITH, trustee of the SMITH  
24 KENT R. REVOCABLE LIVING TRUST 01-  
25 04-90; THE SPRINGS RV AND GOLF  
26 RESORT, LP; T2 BORREGO LLC; T2  
27 FARMS LLC; T2 HOLDING LLC; TROJAN  
28 CITRUS, LLC; JOEL VANASDLEN;  
MICHAEL C. WARD; GAMINI D.  
WEERASEKERA; GABRIEL WISDOM,  
trustee of the WISDOM GABRIEL B&WEIS-  
WISDOM DIANA FAMILY 2008 TRUST 08-  
01-08; WILLIAM D. WRIGHT AND EDNA J.  
WRIGHT, co-trustees of the WRIGHT  
FAMILY LIVING TRUST 06-19-89; and  
ROES 1-5,000

Defendants.

COMPLAINT FOR COMPREHENSIVE ADJUDICATION

Plaintiff Borrego Water District (“BWD” or “District”) alleges as follows:

Introduction

1. This Complaint requests that the Court conduct a comprehensive adjudication pursuant to Title 10, Chapter 7 of the California Code of Civil Procedure (sections 830, *et seq.*), in which the Court would determine all rights to extract (aka pump) groundwater in the Borrego Valley Groundwater Subbasin No. 7.024-01 (“Borrego Basin” or “Basin”), whether based on appropriation, overlying right, or other basis of right, and all rights to use of storage space in the Basin; enter judgment based upon the criteria set forth in section 850 of the Code of Civil Procedure; impose a physical solution pursuant to section 849 of the Code of Civil Procedure; and issue a preliminary injunction pursuant to section 847 of the Code of Civil Procedure (the “Comprehensive Adjudication”).

2. The Comprehensive Adjudication is necessary to protect the limited water supply that is vital to the public health, safety, and welfare of all persons and entities that depend upon waters from the Basin, to ensure its reasonable use pursuant to Article X, section 2 of the California Constitution, and to sustainably manage the Basin pursuant to the Sustainable Groundwater Management Act (California Water Code sections 10720–10737.8, *et al.*) (“SGMA”).

Jurisdiction and Venue

3. This Court has subject matter jurisdiction to comprehensively adjudicate rights to extract groundwater in the Basin and use the Basin’s storage space, and to impose a physical solution in this action pursuant to Code of Civil Procedure section 834.

4. Venue is proper in this Court because the lands, water rights, and other real property that are subject of this action are located within the County of San Diego.

5. Pursuant to section 838 of the Code of Civil Procedure, any judge of San Diego County Superior Court is disqualified because San Diego County overlies the Basin. Accordingly, BWD requests that the Chairperson of the Judicial Council assign a judge to preside over all proceedings in this Comprehensive Adjudication. (Cal. Civ. Proc. Code § 838(a)(1).)

## Parties

8. BWD is a California Water District, a public agency of the State of California located in the County of San Diego. BWD operates wells that extract groundwater from the Basin; provides water services to the Borrego Springs community; manages wells and reservoirs that provide and store water so that it is available when needed; implements groundwater management for the valley; and conducts studies to determine the most economical and environmentally sound way to achieve a sustainable and renewable water supply.

9. Pursuant to Water Code sections 35408 and 35409, BWD has power to commence and maintain this action which affects the ownership or use of waters or water rights within the District used or useful for any purpose of the District, or a benefit to any land and/or to prevent interference with or diminution of the natural flow of any stream or natural subterranean supply of waters which may be used or be useful for any purpose of the district, be of common benefit to the land or its inhabitants, or endanger the inhabitants or land.

### **Settlement Defendants**

10. BWD is informed and believes that the following named defendants (collectively the “Settlement Defendants”) own an interest in one or more parcels in the Basin, and/or extract or store water in the Basin, and/or claim rights or interests in the Basin and have entered into a Settlement Agreement (see Paragraph 26 below) with BWD which includes a proposed stipulated judgment that meets the criteria of section 850 of the Code of Civil Procedure:

(a) David and Juli Bauer are co-trustees of the D&J Bauer Family Trust dated 11-18-04.

(b) William M. Bauer is an individual.

1 (c) Borrego Nazareth, LLC is a California limited liability company organized  
2 and existing under the laws of the State of California, operating Borrego Springs Resort and  
3 Circle Club, and doing business in San Diego County.

4 (d) Borrego Springs Unified School District is a California school district  
5 administered by the California Department of Education.

6 (e) Roland J. Jensen is trustee of the Jensen Family Trust dated 08-05-83, as to  
7 an undivided ownership interest of the various real property parcels comprising the following  
8 OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg Ranch, and  
9 Ranch Caterina.

10 (f) James Sommerville is trustee of the Sommerville Trust dated 11-22-83, as  
11 to an undivided ownership interest of the various real property parcels comprising the following  
12 OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg Ranch, and  
13 Ranch Caterina.

14 (g) Roy Brisbois is trustee of the Conzelman Family Trust A dated 11-22-83,  
15 as to an undivided ownership interest of the various real property parcels comprising the  
16 following OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg  
17 Ranch, and Ranch Caterina.

18 (h) Steven Mohler is trustee of the Conzelman Family Trust C dated 11-22-83,  
19 as to an undivided ownership interest of the various real property parcels comprising the  
20 following OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg  
21 Ranch, and Ranch Caterina.

22 (i) CWC Casa Del Zorro, LLC is a California limited liability company  
23 organized and existing under the laws of the State of California and doing business in San Diego  
24 County.

25 (j) John Doljanin is an individual and owner and operator of West Coast Trees  
26 LLC.

27 (k) JM Roadrunner, LLC is a California limited liability company organized  
28 and existing under the laws of the State of California and doing business in San Diego County.

1 (l) Lance Lundberg is trustee of the Lundberg Family Trust dated 10-01-98,  
2 formerly Lundavid, LLC.

3 (m) The Roadrunner Club at Borrego, LP is a California limited partnership  
4 organized and existing under the laws of the State of California, doing business in San Diego, and  
5 operating Roadrunner Golf & Country Club.

6 (n) Seley Ranches, L.P. is a California limited partnership organized and  
7 existing under the laws of the State of California and doing business in San Diego County.

8 (o) Shenandoah Growers, Inc. is a Virginia corporation organized and existing  
9 under the laws of the State of Virginia and doing business in San Diego County.

10 (p) The Springs RV and Golf Resort, LP is a California limited partnership  
11 organized and existing under the laws of the State of California and doing business in San Diego  
12 County, and operating the Springs at Borrego RV Resort and Golf Club.

13 (q) T2 Borrego LLC is a Colorado limited liability company organized and  
14 existing under the laws of the State of Colorado and doing business in San Diego County.

15 (r) T2 Farms LLC is a Colorado limited liability company organized and  
16 existing under the laws of the State of Colorado and doing business in San Diego County.

17 (s) T2 Holding LLC is a Colorado limited liability company organized and  
18 existing under the laws of the State of Colorado and doing business in San Diego County as T2 B  
19 Holding LLC.

20 (t) Trojan Citrus, LLC is a California limited liability company organized and  
21 existing under the laws of the State of California and doing business in San Diego County.

22 (u) Gamini D. Weerasekera is an individual and owner and manager of  
23 Mountain Spring Organics LLC.

24 **Other Defendants**

25 11. BWD is informed and believes that the following named defendants own an  
26 interest in one or more parcels in the Basin, and/or extract or store water in the Basin, and/or  
27 claim rights or interests in the Basin but have not yet, as of the date of filing this Complaint,  
28 entered into the Settlement Agreement and/or agreed to the Stipulated Judgment:

- 1 (a) Agri-Empire is a California corporation organized and existing under the  
2 laws of the State of California and doing business in San Diego County.
- 3 (b) Rick and Joan Anson are co-trustees of the Anson Family Trust dated 08-  
4 18-08.
- 5 (c) Anza-Borrego Desert State Park is a California State Park located in San  
6 Diego, Imperial, and Riverside Counties.
- 7 (d) Alan & Tracy Asche are individuals.
- 8 (e) Gary D. and Darlis A. Bailey are individuals.
- 9 (f) Borrego Air Ranch Mutual Water & Improvement Co. is a California  
10 corporation organized and existing under the laws of the State of California and doing business as  
11 a mutual water company in San Diego County.
- 12 (g) Raymond A. Carpenter and Susan R. Carpenter, are co-trustees of the  
13 Carpenter Family Trust dated 12-11-07.
- 14 (h) Scott M. Crumrine and Stacey L. Crumrine are co-trustees of the Crumrine  
15 Family Trust dated 04-19-06.
- 16 (i) De Anza Desert Country Club is a California corporation organized and  
17 existing under the laws of the State of California and doing business in San Diego County.
- 18 (j) Genus, L.P. is a California limited partnership organized and existing under  
19 the laws of the State of California and doing business in San Diego County.
- 20 (k) John B. & Silvia H. Hogan are individuals.
- 21 (l) Edward Kitchen is an individual.
- 22 (m) Michael Maiter are John Savittieri are individuals.
- 23 (n) Manuel and Araceli C. Navarro are individuals.
- 24 (o) Monica Real Estate Holdings, L.P. is a California limited partnership  
25 organized and existing under the laws of the State of California and doing business in San Diego  
26 County.
- 27 (p) Doug and Patricia Munson are individuals.
- 28 (q) Ronald Pecoff is an individual.

(r) RTA Borrego, LLC is a California limited liability company organized and existing under the laws of the State of California and doing business in San Diego County.

(s) Jose G. and Maria E. Sanchez are individuals.

(t) Max Siefker is an individual.

(u) Brian Siefker is trustee of the Brian Siefker Trust dated 12-18-01.

(v) Kent R. Smith is trustee of the Smith Kent R. Revocable Living Trust dated 01-04-90.

(w) Joel Vanasdlen is an individual.

(x) Michael C. Ward is an individual.

(y) Gabriel Wisdom is trustee of the Wisdom Gabriel B & Weis-Wisdom Diana Family 2008 Trust dated 08-01-08.

(z) William D. Wright and Edna J. Wright are co-trustees of the Wright Family Living Trust dated 06-19-89.

#### **Roe Defendants**

12. BWD is informed and believes that Defendant Roes 1 through 5,000 are the owners, lessees, or other persons or entities (i) holding or claiming to hold ownership or possessory interests in real property overlying the Basin; (ii) extracting water from the Basin; (iii) claiming some right, title, or interest to water located within the Basin; and/or (iv) having or claiming the right to extract and/or store groundwater in the Basin.

13. BWD is unaware of the true names and capacities of Defendants Roes 1 through 5,000. When BWD becomes aware of their true names and capacities, it will seek leave of court to amend this Complaint accordingly.

#### **Notice of Comprehensive Adjudication**

14. Pursuant to Code of Civil Procedure section 836, BWD lodged with the court a draft Notice titled "NOTICE OF COMMENCEMENT OF GROUNDWATER BASIN ADJUDICATION" and draft Form Answer titled "ANSWER TO ADJUDICATION COMPLAINT." Copies of the draft Notice and draft Form Answer are available at <http://www.borregowd.org/judgment>.

15. Within 30 days of the assignment of a judge by the Chairperson of the Judicial Council to preside over this Comprehensive Adjudication pursuant to section 836 of the Code of Civil Procedure, BWD will file a motion for approval of the draft Notice and draft Form Answer.

16. BWD will also seek court approval for service of the approved Notice and Form Answer in accordance with section 836 of the Code of Civil Procedure as a substitute for the summons otherwise provided for in Civil Actions pursuant to section 412.20 of the Code of Civil Procedure.

17. Following a court order approving the Notice and Form Answer and authorizing service of the landowners pursuant to section 836, BWD will identify the assessor parcel numbers and physical addresses of all real property in the Basin and the names and addresses of all holders of fee title to real property in the Basin using the records of the assessor or assessors of San Diego County (“Overlying Landowners”) and complete service of the Overlying Landowners as required by the Court.

18. Pursuant to Code of Civil Procedure section 836(k), upon receipt of the requisite notice, Overlying Landowners interested in this proceeding shall have the duty to appear in this action and submit proof of their claims, if any.

## General Allegations

19. In 2014, the State of California adopted SGMA “to provide for the sustainable management of groundwater basins,” and “to provide a more efficient and cost-effective groundwater adjudication process that protects water rights, ensures due process, prevents unnecessary delay, and furthers the objectives” of sustainable groundwater management. (Water Code § 10720.1.)

20. The Borrego Valley Groundwater Subbasin No. 7.024-01 (“Borrego Basin” or “Basin”) which is the subject of this Complaint was designated by the California Department of Water Resources (DWR) as high priority and critically overdrafted under SGMA.

21. Under SGMA, BWD and the County of San Diego (“County”) were designated as the Borrego Valley Groundwater Sustainability Agency (GSA) for the Borrego Basin.

22. A draft groundwater sustainability plan (GSP) for the Borrego Basin was prepared and circulated for a sixty-day public review and comment period through May 21, 2019. A draft final GSP (the “Draft Final GSP”) was published on the County’s Borrego GSP website on August 30, 2019, but no public hearing was held under Water Code section 10728.4 to consider adoption of the GSP.

23. By letter dated October 17, 2019, the County formally announced its decision to withdraw from being a GSA without adopting a final GSP by notifying DWR under Water Code section 10723.8(e).

24. The Settling Parties submitted comments objecting to the GSA’s alleged failure to comply with procedural and substantive requirements of SGMA in preparing the Draft Final GSP, but were willing to support a substantially similar Groundwater Management Plan (“GMP”) as part of the physical solution administered by a Court-established Watermaster, with input from a Technical Advisory Committee (TAC) pursuant to the Judgment entered by the Court in a Comprehensive Adjudication under California Code of Civil Procedure section 850(b), including entry of the judgment on an interlocutory basis pursuant to a request for preliminary injunction under Code of Civil Procedure sections 847 and 850.

25. The deadline for the Borrego Valley GSA to adopt a GSP or submit an alternative to DWR is January 31, 2020.

#### **Settlement Agreement**

26. On or about January 27, 2020, BWD and the Settlement Defendants (collectively referred to herein as the “Settling Parties”) entered into a written agreement to “establish the terms and process for their stipulation to a judgment that comprehensively determines and adjudicates all rights to extract and store groundwater in the Borrego Springs Groundwater Subbasin of the Borrego Valley Groundwater Basin and that establishes a physical solution for the Sustainable Groundwater Management for the Basin and complies with Article X, section 2 of the California Constitution” (the “Settlement Agreement”). A copy of the Settlement Agreement is available at <http://www.borregowd.org/judgment>.

1           27.     The Settlement Agreement includes a proposed stipulated judgment (the  
2     “Stipulated Judgment”) that meets the criteria of section 850 of the Code of Civil Procedure.

3           28.     Pursuant to the terms of the Settlement Agreement and Stipulated Judgment, the  
4     Settling Parties agreed to the terms and process to comprehensively determine and adjudicate all  
5     rights to extract and store groundwater in the Borrego Springs Groundwater Subbasin of the  
6     Borrego Valley Groundwater Basin and establish a physical solution for the Sustainable  
7     Groundwater Management for the Basin and complies with Article X, section 2 of the California  
8     Constitution.

9           29.     Pursuant to the terms of the Settlement Agreement, the Settling Parties intend for  
10    the Stipulated Judgment, including the GMP attached thereto, to implement the physical solution  
11    for the Basin, satisfy the substantive objectives of SGMA, and serve as an alternative to a  
12    Groundwater Sustainability Plan under SGMA following approval by DWR.

13          30.     Pursuant to the terms of the Settlement Agreement, the Settling Parties have  
14    agreed that, by January 31, 2020, BWD will submit the proposed Stipulated Judgment as an  
15    Alternative Plan to DWR for review and approval pursuant to Water Code sections 10733.6 and  
16    10737.4.

17                                 FIRST CAUSE OF ACTION

18                                 (Cal. Civ. Proc. Code §§ 830-852 - Comprehensive Adjudication  
19                                 and Physical Solution - Against All Defendants)

20          31.     BWD incorporates by reference the allegations of paragraphs 1 through 30.

21          32.     The Basin has been, and presently is, in a condition of long-term overdraft for a  
22    period longer than ten years consistent with Code of Civil Procedure sections 832(d) and 847(a).

23          33.     There is presently no viable means to cure the Basin’s overdraft through artificial  
24    recharge or other supply augmentation strategy under current Basin conditions and cumulative  
25    average annual extraction/pumping quantities.

26          34.     The groundwater within the Basin constitutes a common source of supply to the  
27    parties herein and the Borrego Springs community.  
28

1           35.     BWD and each of the Defendants are extracting and/or storing or have extracted  
2 and/or stored groundwater from or in the Basin and/or may claim rights to so extract and/or store  
3 groundwater from or in the Basin.

4           36.     BWD has the right to utilize water from the Basin to meet existing public water  
5 needs and also to utilize increased amounts of water from the Basin as necessary to meet future  
6 public needs.

7           37.     BWD's rights to the Basin's water exist both as a result of the priority and extent  
8 of its appropriative and prescriptive rights.

9           38.     Disputes have arisen regarding the parties' respective rights to extract groundwater  
10 from the Borrego Basin.

11          39.     There are conflicting and competing claims of rights to extract groundwater from  
12 and store groundwater in the Basin.

13          40.     This action is necessary to comprehensively determine and adjudicate all  
14 groundwater rights in the Basin and provide a physical solution for the perpetual and continuous  
15 management of the Basin, which perpetual management will achieve sustainable groundwater  
16 management for the Basin consistent with the substantive objectives of SGMA and with the  
17 reasonable and beneficial use doctrine under Article X, section 2 of the California Constitution.

18          41.     BWD and Settlement Defendants have proposed and will submit for court  
19 approval a Stipulated Judgment and physical solution that is anticipated to be supported by more  
20 than 50 percent of all parties who are groundwater extractors in the Basin or use the Basin for  
21 groundwater storage and is supported by groundwater extractors responsible for at least 75  
22 percent of the groundwater extracted in the Basin during the five calendar years before the filing  
23 of the Complaint in accordance with subdivision (b) of section 850 of the Code of Civil  
24 Procedure, in which case the court may impose upon the BWD, Settlement Defendants, and  
25 objecting parties the stipulated judgment both as a preliminary injunction and as a final judgment  
26 if the stipulated judgment meets the criteria in subdivision (a) of section 850 of the Code of Civil  
27 Procedure.

42. Code of Civil Procedure sections 830, *et seq.*, authorize the court to enter a judgment in a comprehensive adjudication which: (1) is consistent with section 2 of Article X of the California Constitution; (2) is consistent with the water right priorities of all non-stipulating parties and any persons in the Basin who have claims that are exempted pursuant to section 833; and (3) treats all objecting parties and any persons who have claims that are exempted pursuant to section 833 equitably as compared to the stipulating parties.

7           43.     The proposed Stipulated Judgment meets the criteria in subdivision (a) of section  
8     850 of the Code of Civil Procedure.

9           44. Further, pursuant to section 849 of the Code of Civil Procedure, the court has the  
10 authority and the duty to impose a physical solution on the parties in a comprehensive  
11 adjudication where necessary and consistent with section 2 of Article X of the California  
12 Constitution.

45. Accordingly, BWD seeks entry of the proposed Stipulated Judgment, or an alternative judgment consistent with the material terms of the Stipulated Judgment that is consistent with section 2 of Article X of the California Constitution and the water right priorities of all non-stipulating parties and any persons in the Basin who have claims that are exempted pursuant to section 833; and treats all objecting parties and any persons who have claims that are exempted pursuant to section 833 equitably as compared to the stipulating parties, and/or to impose a physical solution on the parties regarding their rights to extract groundwater from and store groundwater in the Basin, which is necessary for the perpetual management of the Basin and to achieve sustainable groundwater management for the Basin consistent with SGMA and which is consistent with Article X, section 2 of the California Constitution.

23 SECOND CAUSE OF ACTION

24 (Cal. Civ. Proc. Code § 847 - Preliminary Injunction - Against All Defendants)

25      46.      BWD incorporates by references the allegations of paragraphs 1 through 45.

26           47. Pursuant to section 847 of the Civil Procedure Code, upon a showing that the  
27 Basin is in a condition of long-term overdraft, the court may issue a preliminary injunction which  
28 may include (1) a moratorium on new or increased appropriations of water in the Basin; (2) a

1 limitation on, or reduction in, the diversion or extraction of water in the Basin; (3) an allocation  
2 among the parties establishing amounts of extraction allowed during the pendency of the  
3 comprehensive adjudication from the Basin; and/or (4) procedures for voluntary transfers within  
4 the Basin.

5 48. The Basin is in a condition of long-term overdraft.

6 49. Pursuant to the terms of the Settlement Agreement, the Settling Parties intend to  
7 request a preliminary injunction consistent with Code of Civil Procedure section 847 to provide  
8 for management of the Basin consistent with the terms of the proposed Stipulated Judgment, on  
9 an interlocutory basis, during the pendency of this Action. The request will seek among other  
10 things the appointment of an interim Watermaster and a process to fund the interim Watermaster  
11 budget.

12 50. Accordingly, BWD and the Settlement Defendants seek the issuance of a  
13 preliminary injunction pursuant to Code of Civil Procedure section 847, including, but not limited  
14 to, the management of the Basin on an interlocutory basis; allocations among the parties  
15 establishing amounts of extraction allowed; and the appointment of an interim Watermaster  
16 during the pendency of the Comprehensive Adjudication.

17 PRAYER FOR RELIEF

18 WHEREFORE, BWD prays for the following relief:

19 1. For a judgment in the form of the proposed Stipulated Judgment, or in the event  
20 the Stipulated Judgment cannot be entered pursuant to the Settlement Agreement, an alternative  
21 judgment consistent with the material terms of the Stipulated Judgment to comprehensively  
22 determine and adjudicate all groundwater rights in the Basin and provide a physical solution for  
23 the perpetual and continuous management of the Basin pursuant to Code of Civil Procedure  
24 section 850;

25 2. For a preliminary injunction to provide for the management of the Basin, on an  
26 interlocutory basis, during the pendency of this Action through the entry of the judgment and any  
27 appeal thereof, consistent with the terms of the proposed Stipulated Judgment, including without  
28 limitation for the appointment of an interim Watermaster;

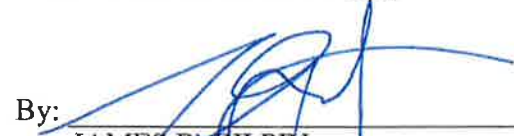
1           3.       For entry of judgment in the form of the proposed Stipulated Judgment, or an  
2 alternative judgment consistent with the material terms of the Stipulated Judgment, against all  
3 defendants who fail to appear in this action that they are bound by the judgment and physical  
4 solution, and their water rights and storage rights in the Basin, if any, are limited to the terms of  
5 the judgment;

6           4.       For judgment in the form of the proposed Stipulated Judgment, or an alternative  
7 judgment consistent with the material terms of the Stipulated Judgment, against all persons who,  
8 presently or in the future, own an interest in real property overlying the Basin and who fail to  
9 appear in this action that they are bound by the judgment and physical solution, and their water  
10 rights in the Basin, if any, are limited to the terms of the judgment; and

11           5.       For such other and further relief as the Court deems just and proper.

12 Dated: January 30, 2020

BEST BEST & KRIEGER LLP

13  
14 By: 

JAMES B. GILPIN  
STEVE M. ANDERSON  
SARAH CHRISTOPHER FOLEY  
Attorneys for Plaintiff  
BORREGO WATER DISTRICT

| Order    |                         |                                       | Case   |                                                                                                               |                                                   |                    | Status                                                                                                                             |
|----------|-------------------------|---------------------------------------|--------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------|--------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Number   | Submitted               | Type                                  | Number | Name                                                                                                          | Court                                             | Client Billing     | Latest Status / Docs                                                                                                               |
| 14361283 | 1/30/2020<br>2:33 PM PT | eFiling<br>court transaction: 2762637 |        | Borrego Water District v.<br>All Person Who Claim a<br>Right to Extract<br>Groundwater in the<br>Borrego etc. | San Diego County, Superior<br>Court of California | 31000.00006<br>JBG |  <b>In Progress</b><br>under court clerk review |