

1 JAMES B. GILPIN, Bar No. 151466
james.gilpin@bbklaw.com
2 STEVE M. ANDERSON, Bar No. 186700
steve.anderson@bbklaw.com
3 SARAH CHRISTOPHER FOLEY, Bar No. 277223
sarah.foley@bbklaw.com
4 BEST BEST & KRIEGER LLP
655 West Broadway, 15th Floor
5 San Diego, California 92101
Telephone: (619) 525-1300
6 Attorneys for Plaintiff
BORRÉGO WATER DISTRICT

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

7 RUSSELL MCGLOTHLIN, Bar No. 208826
rmcglathlin@omm.com
8 ZACHARY SMITH, Bar No. 325987
zsmith@omm.com
9 O'MELVENY & MYERS LLP
1999 Avenue of the Stars, 8th Floor
10 Los Angeles, California 90067-6035
Telephone: 310 553 6700
11 Attorneys for Defendants
T2 BORREGO LLC, et al.

12 MICHELE A. STAPLES, Bar No. 144392
mstaples@jacksontidus.law
13 BOYD L. HILL, Bar No. 140435
bhill@jacksontidus.law
14 JACKSON TIDUS
2030 Main Street, 12th Floor
15 Irvine, California 92614
Telephone: (949) 752-8585
16 Attorneys for Defendants
17 DAVID AND JULI BAUER, AS TRUSTEES OF THE
D&J BAUER FAMILY TRUST 11-18-04, et al.

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF ORANGE**

20 Borrego Water District,
21 Plaintiff,
22 v.
23 ALL PERSONS WHO CLAIM A RIGHT TO
EXTRACT GROUNDWATER IN THE
24 BORREGO VALLEY GROUNDWATER
SUBBASIN NO. 7.024-01 WHETHER
25 BASED ON APPROPRIATION,
OVERLYING RIGHT, OR OTHER BASIS
26 OF RIGHT, AND/OR WHO CLAIM A
RIGHT TO USE OF STORAGE SPACE IN
27 THE SUBBASIN; et al.,
28 Defendant.

Case No. 37-2020-00005776
Judge: Peter J. Wilson
Dept: CX102

**NOTICE OF NON-OPPOSITION TO
MOTION AND MOTION FOR ENTRY
OF STIPULATED JUDGMENT AND
ORDER OF FINANCIAL
REIMBURSEMENT, OR
ALTERNATIVELY, FOR
PRELIMINARY INJUNCTION**

Date: April 8, 2021
Time: 2:00 p.m.
Complaint filed: January 30, 2020
Trial Date: None Set

1 TO THE COURT, THE PARTIES, AND THEIR ATTORNEYS OF RECORD in the
2 above-referenced matter:

3
4 On March 12, 2021, Plaintiff Borrego Water District (“BWD”) and Defendants T2
5 BORREGO LLC; T2 FARMS LLC; T2 HOLDINGS LLC; DAVID AND JULI BAUER AS
6 TRUSTEES OF THE D&J BAUER FAMILY TRUST 11-18-04, JM ROADRUNNER, LLC;
7 SELEY RANCHES, L.P.; SHENANDOAH GROWERS, INC.; GAMINI D. WEERASEKERA,
8 an individual and owner and manager of Mountain Springs Organics, LLC; THE JENSEN
9 FAMILY TRUST DATED AUGUST 5, 1983; THE SOMMERVILLE TRUST DATED
10 NOVEMBER 22, 1983; TRUST A OF THE CONZELMAN FAMILY TRUST DATED
11 NOVEMBER 22, 1983; TRUST C OF THE CONZELMAN FAMILY TRUST DATED
12 NOVEMBER 22, 1983; and MICHAEL C. WARD (collectively “Moving Parties”) filed a
13 Motion for Entry of Stipulated Judgment and Order of Financial Reimbursement, or
14 Alternatively, For Preliminary Injunction (the “Motion”). Any opposition to the Motion was
15 required to be filed on or before March 25, 2021. To date, Moving Parties have not received any
16 opposition to the Motion.

17 Pursuant to subdivision (b) of Section 850 of the Code of Civil Procedure any party
18 objecting to the proposed stipulated judgment (“Judgment”) was required to demonstrate, by a
19 preponderance of evidence, that the proposed Judgment does not satisfy one or more criteria
20 described in subdivision (a) of section 850 or that it substantially violates the water rights of the
21 objecting party. (Code of Civ. Proc. § 850(b).) Absent such a showing, the court may enter the
22 proposed Judgment as the judgment in the Comprehensive Adjudication by making the following
23 findings:

- 24
25 1. The Judgment is consistent with Section 2 of Article X of the California
26 Constitution;

- 1 2. The Judgment is consistent with the water right priorities of all non-stipulating
2 parties and any persons who have claims that are exempted pursuant to Section
3 833 in the basin (i.e., exempted minor pumpers); and
4
5 3. The Judgment treats all objecting parties and any exempted minor pumpers
6 equitably as compared to the stipulating parties.
7

8 As set forth in the Motion, the Judgment satisfies the requirements, and the Moving
9 Parties respectfully request that the Court enter the Judgment lodged with the Court.
10

11 The Judgment, inclusive of the exhibits thereto, is contained in the two binders lodged
12 with the Court. The exhibits are:

- 13
14 1. Groundwater Management Plan for the Borrego Springs Subbasin, January 2020
15 2. Executed Stipulation for Judgment
16 3. Minimum Fallowing Standards
17 4. Baseline Pumping Allocations (BPA)
18 5. Rules and Regulations of the Borrego Springs Watermaster
19 6. Water Rights Restrictive Covenant Forms
20 7. Process for Selecting Watermaster Public/Community Representative, Process for
21 Selecting Watermaster Recreational Sector Representative, and Process for
22 Selecting Watermaster Agricultural Sector Representative
23 8. Entry Agreement Form
24 9. Facility Standards for Mutual Water Companies Formed After Entry of Judgment

25 The Judgment and all of its exhibits are also posted online at
26 <https://www.borregowaterlawsuit.com/> and <https://www.borregowd.org/judgment/>. As of the
27 date of filing this notice, the Judgment is supported by more than 50 percent of all parties who are
28 groundwater extractors in the Borrego Springs Subbasin (Basin) or use the Basin for groundwater

1 storage and is supported by groundwater extractors responsible for at least 85¹ percent of the
2 groundwater extracted in the Basin during the five calendar years before the filing of the
3 complaint. (See Judgment, Exhibit 2.)
4

5 In advance of the hearing, BWD filed notices for entry of default of named Defendants
6 who were served but did not appear. BWD respectfully requests that the Court enter the defaults
7 of those Defendants.
8

9 Additionally, on March 29, 2021 BWD filed a notice re transfer and name change. The
10 Moving Parties respectfully request that the Court sign the order attached thereto.
11

12 The Moving Parties have also lodged with the Court proposed findings and an order
13 entering the Judgment (“Order”), which includes findings of fact and law. The Judgment is
14 proposed to be the judgment of the Court in this Comprehensive Adjudication of the Borrego
15 Springs Subbasin and to be binding on the parties to the comprehensive adjudication and all of
16 their successors in interest, including, but not limited to, their heirs, executors, administrators,
17 assigns, lessees, licensees, agents and employees, all other successors in interest, and all
18 landowners overlying the Borrego Springs Subbasin and all other persons claiming rights to
19 extract or store groundwater from or in the Basin.
20

21 The Order also requires the stipulating parties to submit the Judgment to the Department
22 of Water Resources for evaluation and assessment as an alternative to a Groundwater
23 Sustainability Plan (GSP) pursuant to Water Code Section 10733.6(b)(2).
24

25 The Order also requires the Benefitted Parties (as defined in the Order) to pay their share
26 of the Initial Basin Management Costs and GSP Costs (terms also defined in the Order) and
27

28 ¹ It is possible this number may increase before the April 8, 2021 hearing date with additional stipulating parties.

1 authorizes the Watermaster to collect the same from the Benefitted Parties. The amounts of the
2 required reimbursements are set forth in Exhibits "A-1" and "A-2" to the Order.

3
4 Dated: April 1, 2021

BEST BEST & KRIEGER LLP

5
6 By: 

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

7
8
9 Dated: April 1, 2021

O'MELVENY & MYERS LLP

10
11 By: /s/ Russell McGlothlin

RUSSELL MCGLOTHLIN
Attorneys for Defendants
T2 BORREGO LLC,
T2 FARMS LLC, and
T2 HOLDINGS LLC

12
13
14 Dated: April 1, 2021

JACKSON TIDUS

15
16 By: /s/ Michele A. Staples

MICHELE A. STAPLES
BOYD L. HILL
Attorneys for Defendant
DAVID AND JULI BAUER, AS
TRUSTEES OF THE D&J BAUER
FAMILY TRUST
11-18-04; JM ROADRUNNER, LLC, a
California limited liability company; SELEY
RANCHES, L.P., a California limited
partnership; SHENANDOAH GROWERS,
INC., a Virginia corporation; GAMINI D.
WEERASEKERA, an individual and owner
and manager of Mountain Springs Organics,
LLC, a California limited liability company;
THE JENSEN FAMILY TRUST DATED
AUGUST 5, 1983; THE SOMMERVILLE
TRUST DATED NOVEMBER 22, 1983;
TRUST A OF THE CONZELMAN FAMILY
TRUST DATED NOVEMBER 22, 1983;
TRUST C OF THE CONZELMAN FAMILY
TRUST DATED NOVEMBER 22, 1983;
MICHAEL C. WARD

1 *Borrego Water District v. All Persons Who Claim A Right To Extract Groundwater, et al,*
2 *Orange County Superior Court, Central, Case No. 37-2020-00005776*

3 **PROOF OF SERVICE**

4 I, Jannine South, declare:

5 I am over the age of eighteen years and not a party to the within-entitled action. My
6 business address is 655 West Broadway, 15th Floor, San Diego, California 92101. On April 1,
7 2021, I served a copy of the within document(s):

8 **NOTICE OF NON-OPPOSITION TO MOTION AND MOTION FOR**
9 **ENTRY OF STIPULATED JUDGMENT AND ORDER OF**
10 **FINANCIAL REIMBURSEMENT, OR ALTERNATIVELY, FOR**
11 **PRELIMINARY INJUNCTION**

- 11 **By United States mail.** I enclosed the documents in a sealed envelope or package
12 addressed to the persons at the addresses listed below (specify one):
- 13 Deposited the sealed envelope with the United States Postal Service, with
14 the postage fully prepaid.
 - 15 Placed the envelope for collection and mailing, following our ordinary
16 business practices. I am readily familiar with this business's practice for
17 collecting and processing correspondence for mailing. On the same day that
18 correspondence is placed for collection and mailing, it is deposited in the
19 ordinary course of business with the United States Postal Service, in a
20 sealed envelope with postage fully prepaid.

18 I am a resident or employed in the county where the mailing occurred. The
19 envelope or package was placed in the mail at San Diego, California.

- 20 **By overnight delivery.** I enclosed the documents in an envelope or package
21 provided by an overnight delivery carrier and addressed to the persons at the
22 addresses listed below. I placed the envelope or package for collection and
23 overnight delivery at an office or a regularly utilized drop box of the overnight
24 delivery carrier.

- 24 **By e-mail or electronic transmission.** Based on an agreement of the parties to
25 accept service by e-mail or electronic transmission, I caused the documents to be
26 sent to the persons at the e-mail addresses listed below. I did not receive, within a
27 reasonable time after the transmission, any electronic message or other indication
28 that the transmission was unsuccessful.

27 ***PLEASE SEE ATTACHED SERVICE LIST***

1 I declare under penalty of perjury under the laws of the State of California that the above
2 is true and correct.

3 Executed on April 1, 2021, at San Diego, California.

4
5 
6 _____
7 Jannine South
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
655 WEST BROADWAY, 15TH FLOOR
SAN DIEGO, CA 92101

SERVICE LIST

PARTY	EMAIL ADDRESS FOR E-SERVICE
1 Michele A. Staples 2 Gregory P. Regier 3 Boyd L. Hill 4 JACKSON TIDUS 5 2030 Main Street, 12 th Floor 6 Irvine, CA 92614 7 Attorneys for Defendants: 8 DAVID AND JULI BAUER, AS TRUSTEES OF 9 THE D&J BAUER FAMILY TRUST 11-18-04 10 JM ROADRUNNER, LLC, a California limited 11 liability company 12 SELEY RANCHES, L.P., a California limited 13 partnership 14 SHENANDOAH GROWERS, INC., a Virginia 15 corporation 16 GAMINI D. WEERASEKERA, an individual and 17 owner and manager of Mountain Springs Organics, 18 LLC, a California limited liability company 19 THE JENSEN FAMILY TRUST DATED 20 AUGUST 5, 1983 21 THE SOMMERVILLE TRUST DATED 22 NOVEMBER 22, 1983 23 TRUST A OF THE CONZELMAN FAMILY 24 TRUST DATED NOVEMBER 22, 1983 25 TRUST C OF THE CONZELMAN FAMILY 26 TRUST DATED NOVEMBER 22, 1983 27 MICHAEL C. WARD	Tel.: (949) 752-8585 Fax: (949) 752-0597 Email: mstaples@jacksontidus.law gregier@jacksontidus.law bhill@jacksontidus.law
24 Russell McGlothlin 25 O'MELVENY & MYERS LLP 26 1999 Avenue of the Stars, 7th Floor 27 Los Angeles, CA 90067 28 Attorneys for Defendants T2 BORREGO LLC T2 FARMS LLC, and T2 HOLDING LLC	Tel.: 310-246-8463 Email: rmcglathlin@omm.com Shannon@ramshill.com (Shannon Smith, Vice President)

1	Matthew Soleimanpour SOLEIMAN, APC 5771 La Jolla Boulevard, Suite 4 La Jolla, CA 92037	Tel.: 619-630-5690 Fax: 619-489-6248 Email: matt@soleimanlaw.com
2	Attorneys for Defendants: DESERT STAR FARM, LLC (Roe 1); SCOTT M. 3 CRUMRINE, individually and as trustee of THE 4 SCOTT M. CRUMRINE FAMILY TRUST dated 5 September 26, 2019 (erroneously sued as Scott M. 6 Crumrine, co-trustee of the Crumrine Family Trust 7 04-19-06)	
8	CARPENTER FAMILY TRUST 12-11-07 2145 E. Belt Street San Diego, CA 92113	Tel.: 619-233-0178 Email: rayc@restaite.net (Raymond A. Carpenter)
9	JOHN DOLJANIN 84346 Falco Ct. Indio, CA 92203	Tel.: 619-518-9507 Email: john@wctrees.com
10	Timothy D. Cohelan COHELAN KHOURY & SINGER 605 C Street, Suite 200 San Diego, CA 92101	Tel.: 619-595-3001 Fax: 619-595-3000 Email: tcohelan@ckslaw.com
11	Attorneys for Defendant DE ANZA DESERT 15 COUNTRY CLUB BORREGO NAZARETH LLC	Tel.: 917-952-3311 Email: maboneaaj@saindustries.com (Maiser Aboneaaj, Manager)
12	BORREGO UNIFIED SCHOOL DISTRICT	Email: mstevens@bsusd.net (Mark Stevens, Superintendent)
13	CWC CASA DEL ZORRO, LLC	Email: jmcgrory@ljmjm.com (Jack McGrory, Manager)
14	LANCE LUNDBERG, TRUSTEE OF THE LUNDBERG FAMILY TRUST 10-01-98 6 Fraser Road Westport, CT 06880	Email: lancelundberg@yahoo.com
15	MONICA REAL ESTATE HOLDINGS, L.P. 714 Passiflora Leucadia, CA 92024	Email: Rudymonica04@yahoo.com
16	THE ROADRUNNER CLUB AT BORREGO, LP 1010 Palm Canyon Drive Borrego Springs, CA 92004	Tel.: 916-342-4502 Email: eli@BoaVidaCommunities.com (Elias Weiner, Borrego GP LLC, its general partner) Rich@BoaVidaCommunities.com Aric@theBoaVidaGroup.com

1	THE SPRINGS RV AND GOLF RESORT, LP 2255 DiGiorgio Road PO Box 70 Borrego Springs, CA 92004	Tel.: 916-342-4502 Email: eli@BoaVidaCommunities.com (Elias Weiner, Borrego GP LLC, its general partner) Rich@BoaVidaCommunities.com Aric@theBoaVidaGroup.com (Aric Resnicke)
2	BHLC, LCC 1401 Quail Street, Suite 120 Newport Beach, CA 92660	Tel.: 949-851-8345 Email: jlight@cjlight.net (Jack Light, Managing Member)
3	MARY A. ANDERSON BRUCE A. ANDERSON ANDERSON FAMILY TRUST 4-6-98 4239 Cherokee Lane Borrego Springs, CA 92004	Tel.: 760-767-1179 Email: marya88w@gmail.com (Mary A. Anderson)
4	MARY JANET JOHNSON JANET JOHNSON REVOCABLE TRUST 613 Eton Boulevard Fairbanks, AK 99709	Tel.: 907-978-5006 Email: fishandwhistle65@gmail.com
5	CHARLES S. SMITH PATRICIA SMITH CHARLES A. SMITH AND PATRICIA SMITH TRUST 1-25-12 PO Box 1849 Alpine, CA 91903	Tel.: 619-445-1087 Email: Smithnsmith2000@gmail.com
6	MARILEE HAWKINS CHERRY DONALD M. HAWKINS JERI CULLEN 102 Smart Court Encinitas, CA 92024	Tel.: 760-633-4810 Email: dmhawkins@gmail.com
7	Xavier Becerra Attorney General of California Andrew M. Vogel Supervising Deputy Attorney General Wyatt Sloan-Tribe Deputy Attorney General 300 South Spring Street, Suite 1702 Los Angeles, CA 90013	Tel.: 213-269-6380 Fax: 916-731-2121 Email: Wyatt.Sloan-Tribe@doj.ca.gov
8	Attorneys for Defendant DEPARTMENT OF PARKS & RECREATION	
9	DAVID G. LEIBERT AND CYNTHIA A. WOOD TRUST PO Box 525 2220 Hoberg Road Borrego Springs, CA 92004	Tel.: 760-505-0788 Email: david@thepalmsatindianhead.com

28

1	Robert B. Gerard LAW OFFICES OF ROBERT B. GERARD 1516 Front Street San Diego, CA 92101	Tel.: 619-232-2828 Fax: 619-232-4129 Email: rgerard@gerardlaw.com
2		
3	Attorneys for Defendant NATALIE J. GINSBURG	
4		
5	BORREGO SPRING UNIFIED SCHOOL DISTRICT 2281 Diegueno Road Borrego Springs, CA 92004	Tel.: 760-767-5357 Email: mstevens@bsusd.net (Mark Stevens)
6		
7		
8	PROVIDENT TRUST GROUP LLC FBO JUDITH NELSON 401K 2150 Comstock Street #710-182 San Diego, CA 92171	Tel.: 619-204-5455 Email: kissjanx@gmail.com
9		
10	Michael L. Meeks Douglas E. Wance BUCHALTER 18400 Von Karman Avenue, Suite 800 Irvine, CA 92612-0514	Tel.: 949-760-1121 Fax: 949-720-0182 Email: mmeeks@buchalter.com dwance@buchalter.com
11		
12	Attorneys for Defendant WESTCORE BORREGO, LLC	
13		
14	HAYDEN I. AND SHERRI R. DUBAY 2788 River Road Virginia Beach, VA 23454	Tel.: 757-901-9201, 760-460-6200 Email: hdubay@injurylawcenter.com
15		
16	Nancy Dubonnet A Professional Law Corporation 2082 Michelson Drive, #480 Irvine, CA 92612	Tel.: 949-399-2525 Fax: 949-399-2528 Email: nancy@dubonnet.law
17		
18	Attorneys for Defendant RTA BORREGO VALLEY, LLC	
19		
20	Geoffrey Spreter SPRETER & PETIPRIN 601 Third Street Coronado, CA 92118	Tel.: 619-865-7986 Email: geoff@spreterlaw.com
21		
22	Attorneys for Defendant PATRICK SPRETER	
23		
24	Eric M. Schiffer SCHIFFER & BUUS, APC 959 South Coast Drive, Suite 385 Costa Mesa, CA 92626	Tel.: 949-825-6140 Fax : 949-825-6141 Email: eschiffer@schifferbuus.com
25		
26	Attorneys for Defendant MURDIA ROGERS	
27		
28		

1	Keith R. Solar PARKS & SOLAR, LLP 501 W. Broadway, Suite 1540 San Diego, CA 92101	Tel.: 619-501-2700 Fax: 619-501-2300 Email: ksolar@parksandsolar.com
2		
3	Attorneys for Defendants	
4	BORREGO AIR RANCH MUTUAL WATER & IMPROVEMENT CO., JAMIE JO LEWIS	
5		
6	NESSA ERIC & NICOLE FAMILY TRUST 05- 23-19 26675 Cuenca Drive Mission Viejo, CA 92691	Tel.: 949-282-9045 Email: ericnessa8@aol.com
7		
8	CARY D. LOWE 3517 Garrison Street San Diego, CA 92106	Tel.: 619-255-3078 Email: carylowe@cox.net
9		
10	JOEL VANASDLEN 1153 Tilting T Drive PO Box 2205 Borrego Springs, CA 92004-2205	Tel.: 717-414-6922 Email: vanasdlen@gmail.com
11		
12		
13	Glen R. Mazingo MOZINGO LAW GROUP APC 4695 MacArthur Court Newport Beach, CA 92660	Tel.: 949-798-6236 Fax: 831-622-9685 Email: grmazingo@aol.com grmazingoesq@gmail.com
14		
15	Attorneys for Defendant	
16	Mathes Family Limited Partnership	
17	Jacob Ayres GUPTA EVANS & ASSOCIATES, PC 1620 Fifth Avenue, Suite 650 San Diego, California 92101	Tel: 619-866-344 Fax: 619-330-2055 Email: ja@socal.law
18		
19	Attorneys for Defendant William Bauer	
20	BRIAN FISCHER TRACY SAIKI TIM GOBLER MICHAEL BOZICK BAGDASARIAN FARMS, LLC 65500 Lincoln Street Mecca, CA 92254	Tel: 760-396-2168 Email: bfischer@mrgrape.com tsaiki@illumeag.com tgobler@illumeag.com mbozick@rbipacking.com
21		
22		
23		
24	KENT R. SMITH TRUSTEE OF THE SMITH KENT R. REVOCABLE TRUST 01-04-90 8 Kiopa'a Street #102 Pukalani, Hawaii 96768	Tel: 808-280-0263 Email: krs@mnhawaii.net
25		
26		
27		
28		