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BORRÉGO WATER DISTRICT

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

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T2 BORREGO LLC, et al.

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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 SAN DIEGO**

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 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 ALL PARTIES AND THEIR ATTORNEYS OF RECORD**

2 PLEASE TAKE NOTICE that on April 8, 2021, at 2:00 p.m., in Department CX102 of
3 the above entitled court, Plaintiff Borrego Water District and Defendants T2 BORREGO LLC;
4 T2 FARMS LLC; T2 HOLDINGS LLC; DAVID AND JULI BAUER AS TRUSTEES OF THE
5 D&J BAUER FAMILY TRUST 11-18-04, JM ROADRUNNER, LLC; SELEY RANCHES,
6 L.P.; SHENANDOAH GROWERS, INC.; GAMINI D. WEERASEKERA, an individual and
7 owner and manager of Mountain Springs Organics, LLC; THE JENSEN FAMILY TRUST
8 DATED AUGUST 5, 1983; THE SOMMERVILLE TRUST DATED NOVEMBER 22, 1983;
9 TRUST A OF THE CONZELMAN FAMILY TRUST DATED NOVEMBER 22, 1983; TRUST
10 C OF THE CONZELMAN FAMILY TRUST DATED NOVEMBER 22, 1983; and MICHAEL
11 C. WARD (collectively “Moving Parties”) will move for the following:


- 12 1. Pursuant to Section 850(b) of the Code of Civil Procedure, for entry of the
13 proposed Stipulated Judgment attached hereto as Exhibit “A” and incorporated
14 herein by reference; and
- 15 2. For entry of an order for financial reimbursement of the proportionate share of
16 costs incurred by the Stipulating Parties in developing and implementing the
17 physical solution for the Basin from those pumpers that are not Stipulating Parties,
18 but will receive the benefit of a pumping allocation under the Judgment; or
- 19 3. **Alternatively**, pursuant to Section 847 of the Code of Civil Procedure while any
20 objections to the proposed Stipulated Judgment are being resolved by the Court,
21 for issuance of a preliminary injunction to provide for the management of the
22 Basin consistent with the terms of the proposed Stipulated Judgment, on an
23 interlocutory basis, during the pendency of the action through the entry of
24 judgment and any appeal thereof, including without limitation the appointment of
25 an interim Watermaster.

26 This Motion is based on the pleadings and papers filed in the underlying action, this
27 Notice of Motion and Motion, the accompanying Memorandum in Support of the Motion, the
28 Declarations of James Gilpin, Shannon Smith, and Trey Driscoll, Notice of Lodgment in Support

1 of the Motion, and such other evidence and argument as may be prepared at the hearing on the
2 Motion.

3 Dated: March 12, 2021

BEST BEST & KRIEGER LLP

4
5 By: 
6 JAMES B. GILPIN
7 STEVE M. ANDERSON
8 SARAH CHRISTOPHER FOLEY
9 Attorneys for Plaintiff
10 BORREGO WATER DISTRICT

8 Dated: March 12, 2021

O'MELVENY & MYERS LLP

9
10 By: /s/ Russell McGlothlin
11 RUSSELL MCGLOTHLIN
12 Attorneys for Defendants
13 T2 BORREGO LLC,
14 T2 FARMS LLC, and
15 T2 HOLDINGS LLC

13 Dated: March 12, 2021

JACKSON TIDUS

14
15 By: /s/ Michele A. Staples
16 MICHELE A. STAPLES
17 BOYD L. HILL
18 Attorneys for Defendant
19 DAVID AND JULI BAUER, AS
20 TRUSTEES OF THE D&J BAUER
21 FAMILY TRUST
22 11-18-04; JM ROADRUNNER, LLC, a
23 California limited liability company; SELEY
24 RANCHES, L.P., a California limited
25 partnership; SHENANDOAH GROWERS,
26 INC., a Virginia corporation; GAMINI D.
27 WEERASEKERA, an individual and owner
28 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