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8 BORRÉGO WATER DISTRICT

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ORANGE

11
12 BORREGO WATER DISTRICT,
13 Plaintiff,

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

14 v.

**DECLARATION OF SHANNON SMITH
IN SUPPORT OF JOINT MOTION FOR
ENTRY OF STIPULATED JUDGMENT
AND ORDER OF FINANCIAL
REIMBURSEMENT, OR
ALTERNATIVELY FOR
PRELIMINARY INJUNCTION**

15 ALL PERSONS WHO CLAIM A RIGHT TO
16 EXTRACT GROUNDWATER IN THE
BORREGO VALLEY GROUNDWATER
17 SUBBASIN NO. 7.024-01 WHETHER
BASED ON APPROPRIATION,
18 OVERLYING RIGHT, OR OTHER BASIS
OF RIGHT, AND/OR WHO CLAIM A
19 RIGHT TO USE OF STORAGE SPACE IN
THE SUBBASIN; et al.,

20 Defendants.
21

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

DECLARATION OF SHANNON SMITH

I, Shannon Smith, declare:

1. I am a director of the Borrego Springs Interim Watermaster Board (“Watermaster”) and currently serve as the Watermaster’s Treasurer. I submit this declaration in support of the request for reimbursement of costs set forth in the concurrently-filed Motion for Entry of Stipulated Judgment and Order of Financial Reimbursement, or Alternatively, for Preliminary Injunction (“Motion”).

2. The Watermaster was established pursuant to a settlement agreement entered into on or about January 27, 2020 (“Settlement Agreement”) among BWD and the vast majority of groundwater pumpers (collectively, the “Settling Parties”) in the Borrego Valley Groundwater Subbasin (“Basin”). Pursuant to the Settlement Agreement, the Watermaster is currently holding public meetings in an effort to promote the sustainable management of the Basin, consistent with the terms of the proposed stipulated judgment (“Judgment”) agreed to pursuant to the Settlement Agreement.

4. As Treasurer, I oversee the Watermaster’s finances and handle accounts of monies paid to the Watermaster by the Settling Parties consistent with the terms of the Settlement Agreement.

5. Pursuant to the Settlement Agreement, and as explained in the Motion, the Settling Parties seek financial reimbursement for expenses incurred in developing and implementing the sustainable groundwater management actions provided for in the Judgment from those pumpers that are not Settling Parties, but will receive the benefit of a pumping allocation under the proposed Judgment.

5. Section 4.4 of the Settlement Agreement obligates the Settling Parties to seek an order from the Court for the non-stipulating parties receiving a grant of Baseline Pumping Allocation (“BPA”) under the Judgment to reimburse the Settling Parties for a portion of the costs of the preliminary actions taken to manage the Basin while the adjudication is processed (e.g., funding of Watermaster and the Basin’s water quality monitoring plan) so that these expenses are funded proportional to comparative grants of BPA pursuant to the Judgment.

1 6. Section 6.1 of the Settlement Agreement obligates the Settling Parties to seek an
2 order from the Court for all BPA recipients, the Borrego Elementary School, Borrego Springs
3 Unified School District (“School District”) and the California State Parks (“State Park”) to
4 reimburse the Borrego Water District (“BWD”) for the costs incurred by the BWD in preparing
5 the draft groundwater sustainability plan (“GSP”) for the Basin, which was adapted into the
6 groundwater management plan included in the proposed Judgment, so that these expenses are
7 funded proportional to comparative grants of allocations (BPA) and the pumping authorizations
8 to the School District and State Parks pursuant to the Judgment.

9 7. Consistent with the Settlement Agreement, I have kept records of billings made to
10 the Settling Parties and the payments that would be owed pursuant to the requested
11 reimbursements, if so ordered by the Court. These totals are shown in the schedule attached
12 hereto as **Exhibit A**. If so ordered, Watermaster will invoice the non-stipulating parties for the
13 amounts owed and make appropriate reimbursements to realize the proportional funding specified
14 in Paragraphs 5 and 6 herein.

15 8. As an individual substantially engaged in the development of the Settlement
16 Agreement and proposed Judgment, and based on my review of the anticipated costs of Basin
17 management set forth in the draft GSP for the Basin developed by the BWD and the County of
18 San Diego, it is my opinion that the expenses anticipated to be imposed on the BPA recipients,
19 the School District, and the State Park under the Judgment, inclusive of those expenses for which
20 reimbursement is sought in the Motion, are materially lower than those expenses these parties
21 would have born pursuant to the implementation of the draft GSP.

22 I declare under penalty of perjury that the foregoing is true and correct. Executed on
23 March 12, 2021, at Dunedin, Florida.



Shannon Smith

EXHIBIT A

Exhibit A**Section 4 Actions Pending Entry of Judgment****Borrego Water District v. ALL PERSONS WHO CLAIM A RIGHT TO
EXTRACT GROUNDWATER IN THE
BORREGO VALLEY GROUNDWATER
SUBBASIN**

Name	Allocation or BPA (Acre Feet)	Initial Assessment Per BPA AF	Section 4 Actions Pending Judgment Due from Non-Settling Parties	Original Billing to Settling Parties
Agri-Empire	574	\$ 48.00	\$ 27,552.00	
Anza-Borrego Desert State Park (State of CA)	20	\$ 48.00		
Rick and Joan Anson co-trustees of the Anson Family Trust 08-18-03	2	\$ 48.00	\$ 96.00	
Alan & Tracy Asche	5	\$ 48.00	\$ 240.00	
Gary D. & Darlis A. Bailey	7	\$ 48.00	\$ 336.00	
David and Juli Bauer, co-trustees of the D&J Bauer Family Trust 11-18-04	1,826	\$ 48.00		\$ 87,648.00
William M. Bauer	670	\$ 48.00		\$ 32,160.00
Borrego Air Ranch Mutual Water & Improvement Co.	12	\$ 48.00	\$ 576.00	
Borrego Nazareth LLC (Borrego Springs Resort & Club Circle)	1,462	\$ 48.00		\$ 70,176.00
Borrego Unified School District (Borrego Elementary)***	22	\$ 48.00		
Borrego Water District	2,581	\$ 48.00		\$ 123,888.00
Raymond A. Carpenter and Susan R. Carpenter, co-trustees of the Carpenter Family Trust 12-11-07	6	\$ 48.00	\$ 288.00	
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	\$ 48.00		\$ 32,928.00
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	\$ 48.00		\$ 23,328.00
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 – Gigi Ranch)	878	\$ 48.00		\$ 42,144.00

Exhibit A**Section 4 Actions Pending Entry of Judgment****Borrego Water District v. ALL PERSONS WHO CLAIM A RIGHT TO
EXTRACT GROUNDWATER IN THE
BORREGO VALLEY GROUNDWATER
SUBBASIN**

Name	Allocation or BPA (Acre Feet)	Initial Assessment Per BPA AF	Section 4 Actions Pending Judgment Due from Non-Settling Parties	Original Billing to Settling Parties
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	\$ 48.00		\$ 32,448.00
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	\$ 48.00		\$ 66,192.00
Conzelman Family Trust A 11-22-83 (OASIS – De Anza Ranch)	636	\$ 48.00		\$ 30,528.00
Desert Farm LLC Crumrine Family Trust 04-19-06	21	\$ 48.00	\$ 1,008.00	
C W C Casa Del Zorro LLC	22	\$ 48.00		\$ 1,056.00
De Anza Desert Country Club	957	\$ 48.00	\$ 45,936.00	
Desert Flora Nursery (John B. & Silvia H. Hogan)	8	\$ 48.00	\$ 384.00	
John Doljanin, West Coast Trees	887	\$ 48.00		\$ 42,576.00
Genus LP	112	\$ 48.00	\$ 5,376.00	
Jack McGrory; JM Roadrunner, LLC (Cogan)	555	\$ 48.00		\$ 26,640.00
JM RoadRunner, LLC (Road Runner I)	671	\$ 48.00		\$ 32,208.00
JM RoadRunner, LLC (Road Runner II)	387	\$ 48.00		\$ 18,576.00
Robert Larkins	2	\$ 48.00	\$ 96.00	
Michael Maiter & John Savittieri	1	\$ 48.00	\$ 48.00	
Mountain Springs Organics, Inc. (Gamini D. Weerasekera)	103	\$ 48.00		\$ 4,944.00
Manuel & Araceli C. Navarro	14	\$ 48.00	\$ 672.00	
Monica Real Estate Holdings LP	18	\$ 48.00		\$ 864.00
Doug Munson & Patricia Munson	1	\$ 48.00	\$ 48.00	
Ronald Pecoff	114	\$ 48.00	\$ 5,472.00	
Roadrunner Club at Borrego, LP	520	\$ 48.00		\$ 24,960.00

Exhibit A

Section 4 Actions Pending Entry of Judgment

**Borrego Water District v. ALL PERSONS WHO CLAIM A RIGHT TO
EXTRACT GROUNDWATER IN THE
BORREGO VALLEY GROUNDWATER
SUBBASIN**

Name	Allocation or BPA (Acre Feet)	Initial Assessment Per BPA AF	Section 4 Actions Pending Judgment Due from Non-Settling Parties	Original Billing to Settling Parties
RTA Borrego, LLC	12	\$ 48.00	\$ 576.00	
Jose G. & Maria E. Sanchez	4	\$ 48.00	\$ 192.00	
Seley Ranches, L.P.	2,226	\$ 48.00		\$ 106,848.00
Shenandoah Growers, Inc.	61	\$ 48.00		\$ 2,928.00
Max Siefker	2	\$ 48.00	\$ 96.00	
Brian Siefker, trustee of the Brian Siefker Trust 12-18-01	3	\$ 48.00	\$ 144.00	
Kent R. Smith, trustee of the Smith Kent R. Revocable Living Trust 01-04-90	32	\$ 48.00	\$ 1,536.00	
The Springs RV and Golf Resort, LP	287	\$ 48.00		\$ 13,776.00
T2 Borrego LLC	965	\$ 48.00		\$ 46,320.00
T2 Borrego, LLC (Ram's Hill Golf Club)	2,518	\$ 48.00		\$ 120,864.00
T2 Farms, LLC	485	\$ 48.00		\$ 23,280.00
Bagdasarian Farms, LLC	1,142	\$ 48.00		\$ 54,816.00
Joel Vanasdlen	36	\$ 48.00	\$ 1,728.00	
Michael C. Ward	82	\$ 48.00	\$ 3,936.00	
Wisdom Gabriel B&Weis-Wisdom Diana Family 2008 Trust 08-01-08	1	\$ 48.00	\$ 48.00	
William D. Wright and Edna J. Wright, co-trustees of the Wright Family Living Trust 06-19-89	158	\$ 48.00	\$ 7,584.00	
TOTAL	24,335		\$ 103,968.00	\$ 1,062,096.00
Less: Allocations to ABDSP and Borrego Unified School District	42			
Total BPA per Exhibit 4	24,293			

Exhibit A**Allocation of GSP Preparation Costs****Borrego Water District v. ALL PERSONS WHO CLAIM A RIGHT TO****EXTRACT GROUNDWATER IN THE****BORREGO VALLEY GROUNDWATER****SUBBASIN**

Name	Allocation or BPA (Acre Feet)	Proportionate Responsibility	Settlement Agreement Section 6.1 GSP Prep Costs		Original Billing to Settling Parties	Due From Non-Settling Parties (Due To) Settling Parties
			\$	113,333.33		
Agri-Empire	574	2.3587%	\$	2,673.24	\$ -	\$ 2,673.24
Anza-Borrego Desert State Park (State of CA)	20	0.0822%	\$	93.14	\$ -	\$ 93.14
Rick and Joan Anson co-trustees of the Anson Family Trust 08-18-03	2	0.0082%	\$	9.31	\$ -	\$ 9.31
Alan & Tracy Asche	5	0.0205%	\$	23.29	\$ -	\$ 23.29
Gary D. & Darlis A. Bailey	7	0.0288%	\$	32.60	\$ -	\$ 32.60
David and Juli Bauer, co-trustees of the D&J Bauer Family Trust 11-18-04	1,826	7.5036%	\$	8,504.07	\$ 9,343.39	\$ (839.32)
William M. Bauer	670	2.7532%	\$	3,120.33	\$ 3,428.30	\$ (307.97)
Borrego Air Ranch Mutual Water & Improvement Co.	12	0.0493%	\$	55.89	\$ -	\$ 55.89
Borrego Nazareth LLC (Borrego Springs Resort & Club Circle)	1,462	6.0078%	\$	6,808.85	\$ 7,480.85	\$ (672.00)
Borrego Unified School District (Borrego Elementary)***	22	0.0904%	\$	102.46	\$ 112.57	\$ (10.11)
Borrego Water District	2,581	10.6061%	\$	12,020.27	\$ 13,206.62	\$ (1,186.35)
Raymond A. Carpenter and Susan R. Carpenter, co-trustees of the Carpenter Family Trust 12-11-07	6	0.0247%	\$	27.94	\$ -	\$ 27.94
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	2.8190%	\$	3,194.85	\$ 3,510.17	\$ (315.32)
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	1.9971%	\$	2,263.41	\$ 2,486.79	\$ (223.38)
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 – Gigi Ranch)	878	3.6080%	\$	4,089.03	\$ 4,492.60	\$ (403.57)
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	2.7779%	\$	3,148.28	\$ 3,459.00	\$ (310.72)

Exhibit A

Allocation of GSP Preparation Costs

Borrego Water District v. ALL PERSONS WHO CLAIM A RIGHT TO

EXTRACT GROUNDWATER IN THE

BORREGO VALLEY GROUNDWATER

SUBBASIN

Name	Allocation or BPA (Acre Feet)	Proportionate Responsibility	Settlement Agreement		Original Billing to Settling Parties	Due From Non-Settling Parties (Due To) Settling Parties
			Section 6.1 GSP Prep Costs	\$ 113,333.33		
Conzelman Family Trust A 11-22-83; Conzelman Family Trust C 11-22-83; Jensen Family Trust 8-05-83; Somerville Trust 11-22-83 (OASIS – Rancho Caterina)	1,379	5.6667%	\$	6,422.30	\$ 7,056.15	\$ (633.85)
Conzelman Family Trust A 11-22-83 (OASIS – De Anza Ranch)	636	2.6135%	\$	2,961.99	\$ 3,254.32	\$ (292.33)
Desert Farm LLC Crumrine Family Trust 04-19-06	21	0.0863%	\$	97.80	\$ -	\$ 97.80
C W C Casa Del Zorro LLC	22	0.0904%	\$	102.46	\$ 112.57	\$ (10.11)
De Anza Desert Country Club	957	3.9326%	\$	4,456.95	\$ -	\$ 4,456.95
Desert Flora Nursery (John B. & Silvia H. Hogan)	8	0.0329%	\$	37.26	\$ -	\$ 37.26
John Doljanin, West Coast Trees	887	3.6450%	\$	4,130.95	\$ 4,538.65	\$ (407.70)
Genus LP	112	0.4602%	\$	521.61	\$ -	\$ 521.61
Jack McGrory; JM Roadrunner, LLC (Cogan)	555	2.2807%	\$	2,584.75	\$ 2,839.86	\$ (255.11)
JM RoadRunner, LLC (Road Runner I)	671	2.7573%	\$	3,124.99	\$ 3,433.41	\$ (308.42)
JM RoadRunner, LLC (Road Runner II)	387	1.5903%	\$	1,802.34	\$ 1,980.22	\$ (177.88)
Robert Larkins	2	0.0082%	\$	9.31	\$ -	\$ 9.31
Michael Maiter & John Savittieri	1	0.0041%	\$	4.66	\$ -	\$ 4.66
Mountain Springs Organics, Inc. (Gamini D. Weerasekera)	103	0.4233%	\$	479.69	\$ 527.04	\$ (47.35)
Manuel & Araceli C. Navarro	14	0.0575%	\$	65.20	\$ -	\$ 65.20
Monica Real Estate Holdings LP	18	0.0740%	\$	83.83	\$ 92.10	\$ (8.27)
Doug Munson & Patricia Munson	1	0.0041%	\$	4.66	\$ -	\$ 4.66
Ronald Pecoff	114	0.4685%	\$	530.92	\$ -	\$ 530.92
Roadrunner Club at Borrego, LP	520	2.1368%	\$	2,421.75	\$ 1,785.78	\$ 635.97
RTA Borrego, LLC	12	0.0493%	\$	55.89	\$ -	\$ 55.89
Jose G. & Maria E. Sanchez	4	0.0164%	\$	18.63	\$ -	\$ 18.63
Seley Ranches, L.P.	2,226	9.1473%	\$	10,366.96	\$ 11,390.13	\$ (1,023.17)
Shenandoah Growers, Inc.	61	0.2507%	\$	284.09	\$ 312.13	\$ (28.04)
Max Siefker	2	0.0082%	\$	9.31	\$ -	\$ 9.31
Brian Siefker, trustee of the Brian Siefker Trust 12-18-01	3	0.0123%	\$	13.97	\$ -	\$ 13.97

Exhibit A
Allocation of GSP Preparation Costs
Borrego Water District v. ALL PERSONS WHO CLAIM A RIGHT TO
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Name	Allocation or BPA (Acre Feet)	Proportionate Responsibility	Settlement Agreement Section 6.1 GSP Prep Costs \$ 113,333.33	Original Billing to Settling Parties	Due From Non-Settling Parties (Due To) Settling Parties
Kent R. Smith, trustee of the Smith Kent R. Revocable Living Trust 01-04-90	32	0.1315%	\$ 149.03	\$ -	\$ 149.03
The Springs RV and Golf Resort, LP	287	1.1794%	\$ 1,336.62	\$ 2,343.52	\$ (1,006.90)
T2 Borrego LLC	965	3.9655%	\$ 4,494.24	\$ 4,937.77	\$ (443.53)
T2 Borrego, LLC (Ram's Hill Golf Club)	2,518	10.3472%	\$ 11,726.87	\$ 12,884.26	\$ (1,157.39)
T2 Farms, LLC	485	1.9930%	\$ 2,258.75	\$ 2,481.68	\$ (222.93)
Bagdasarian Farms, LLC	1,142	4.6928%	\$ 5,318.54	\$ 5,843.45	\$ (524.91)
Joel Vanasdlen	36	0.1479%	\$ 167.66	\$ -	\$ 167.66
Michael C. Ward	82	0.3370%	\$ 381.89	\$ -	\$ 381.89
Wisdom Gabriel B&Weis-Wisdom Diana Family 2008 Trust 08-01-08	1	0.0041%	\$ 4.66	\$ -	\$ 4.66
William D. Wright and Edna J. Wright, co-trustees of the Wright Family Living Trust 06-19-89	158	0.6493%	\$ 735.84	\$ -	\$ 735.84
					\$ -
TOTAL	24,335	100.0000%	\$ 113,333.33	\$ 113,333.33	\$ (0.00)
Less: Allocations to ABDSP and Borrego Unified School District	42				
Total BPA per Exhibit 4	24,293				