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 8 BORRÉGO WATER DISTRICT

Exempt from Filing Fees Pursuant to
 Government Code Section 6103

9
 10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF ORANGE

12
 13 BORRÉGO WATER DISTRICT,

14 Plaintiff,

15 v.

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

21 Defendants.

Case No. 37-2020-00005776

Judge: Peter J. Wilson
 Dept. CX102

JOINT STATUS CONFERENCE
 STATEMENT

Date: November 20, 2020
 Time: 9:00 a.m.
 Dept.: CX102

Complaint filed: January 30, 2020
 Trial Date: None Set

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Plaintiff Borrego Water District (“BWD”) and the signing settlement defendants below
3 (collectively, the “Settling Parties”), submit this joint status report pursuant to the Court’s
4 Minute Orders dated July 16, 2020, and September 3, 2020.

5 **I. INTRODUCTION**

6 The underlying action is a comprehensive groundwater basin adjudication pursuant to
7 Code of Civil Procedure sections 830, *et seq.*,¹ (the “Statute”). As discussed in BWD’s
8 Complaint, the Settling Parties seek the entry of a Stipulated Judgment (“Stipulated Judgment”)
9 that would comprehensively determine and adjudicate all rights to extract and store groundwater
10 in the Borrego Valley Groundwater Subbasin No. 7.024-01 (“Basin”) and establish a physical
11 solution to sustainably manage the Basin consistent with Article X, section 2 of the California
12 Constitution.

13 The Statute sets forth particular notice requirements, methods of service, and special
14 procedures for conducting a comprehensive groundwater basin adjudication. (See Code Civ.
15 Proc. §§ 835, 836, 836.5.) As explained below, BWD is in the process of completing service and
16 compliance with the notice provisions of the Statute. It anticipates completion on or before
17 December 4, 2020. Thereafter, the parties have 60 days to appear in the action as set forth in the
18 notice of commencement of the adjudication. Once the appearance deadline has passed, the
19 Settling Parties intend to file a motion in for entry of Stipulated Judgment pursuant to Section
20 850. Accordingly, the Settling Parties request that the Court:

- 21 1. Reserve and set a hearing date for the motion for entry of Stipulated Judgment in March;
- 22 2. Set a further Status Conference for December to address any outstanding service and
23 notice issues;
- 24 3. Set a Case Management Conference in February after all appearances have been made to
25 assess the case schedule and developments leading up to the hearing on the motion in
26 March;

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 ¹ Unless otherwise indicated, all further references are to the Code of Civil Procedure.

- 1 4. Enter an order regarding electronic service as discussed in Section V below: Special
2 Considerations for the Court; and
- 3 5. Enter an order allowing parties to elect to file a stipulation for entry of Judgment, in lieu
4 of filing an answer as discussed in Section V below: Special Considerations for the Court.

5 **II. SUMMARY OF THE CASE**

6 On January 30, 2020, BWD filed a Complaint in San Diego Superior Court to conduct a
7 comprehensive adjudication of the Basin.² The Complaint alleges two causes of action: (1)
8 comprehensive adjudication of the Basin; and (2) preliminary injunction pursuant to Section 847.³

9 The California Department of Water Resources (“DWR”) has designated the Basin as
10 “critically overdrafted,”⁴ which means continuation of pre-existing water management practices
11 could result in significant adverse overdraft-related environmental, social, or economic impacts.
12 Because of this designation, the groundwater withdrawals from the Basin must be reduced to the
13 sustainable yield over the next twenty years and beyond under the Sustainable Groundwater
14 Management Act (Wat. Code §§ 10720–10737.8, *et al.*) (“SGMA”). The Basin supports an
15 economically disadvantaged community, agricultural operations, and recreational uses, and the
16 comprehensive adjudication is necessary to protect the limited water supply that is vital to the

17

18 ² Pursuant to Section 392, San Diego County Superior Court was the proper venue for filing
19 the action because the lands, water rights, and other real property that are the subject of this action
20 are located within the County of San Diego. Pursuant to Section 838, all San Diego County
21 Superior Court judges are disqualified from hearing the matter, and the Judicial Council was
22 required to assign a judge to preside over all proceedings. (Code Civ. Proc. § 838(a)(1).) On
23 March 9, 2020, the case was transferred by the Judicial Council to Orange County Superior Court
24 Judge Melissa R. McCormick presiding as a judge of San Diego Superior Court. On June 16,
25 2020, the case was designated complex and reassigned by the Chairperson of the Judicial Council
26 to Orange County Superior Court Judge Peter J. Wilson presiding as a judge of the San Diego
27 Superior Court. The case was ultimately assigned to this Court on June 16, 2020.

28 ³ The Complaint requests the following relief: (1) a judgment to comprehensively determine
and adjudicate all groundwater rights in the Basin and provide a physical solution for the
perpetual and continuous management of the Basin; (2) a preliminary injunction to provide for
the management of the Basin, during the pendency of this action including for the appointment of
an interim Watermaster; (3) entry of judgment against all defendants who fail to appear in this
action that they are bound by the judgment and physical solution, and their water rights and
storage rights in the Basin, if any, are limited to the terms of the physical solution; (4) judgment
against all persons who, presently or in the future, own an interest in real property overlying the
Basin and who fail to appear in this action that they are bound by the judgment and physical
solution, and their water rights in the Basin, if any, are limited to the terms of the physical
solution; and (5) such other and further relief as the Court deems just and proper.

⁴ DWR Bulletin 118, Interim Update 2016, at pp. 8, 12-15.

1 public health, safety, and welfare of all persons and entities that depend upon waters from the
2 Basin; to ensure its reasonable use pursuant to Article X, section 2 of the California Constitution;
3 and to sustainably manage the Basin pursuant to SGMA. A groundwater sustainability plan
4 (“GSP”) or an alternative management plan (*see* Water Code §§ 10733.6 and 10737.4) is required
5 for the Basin as of January 31, 2020.

6 Prior to initiating this action, BWD entered into a settlement agreement with persons who
7 own real property in the Basin, and/or extract or store water in the Basin, and/or claim rights or
8 interests in the Basin (the “Settlement Defendants”) to “establish the terms and process for their
9 stipulation to a judgment that comprehensively determines and adjudicates all rights to extract
10 and store groundwater in the Borrego Springs Groundwater Subbasin of the Borrego Valley
11 Groundwater Basin and that establishes a physical solution for the Sustainable Groundwater
12 Management for the Basin and complies with Article X, section 2 of the California Constitution.”
13 The Settlement Defendants are listed below in section III.A and constitute twenty-two named
14 defendants, which together with BWD, account for over 90% of the groundwater extraction from
15 the Basin.

16 The Settlement Agreement obligates the Settling Parties to seek entry of the proposed
17 Stipulated Judgment pursuant to this action. The proposed Stipulated Judgment includes a
18 comprehensive groundwater management plan to implement a physical solution for the Basin,
19 which satisfies the substantive objectives of SGMA and will serve as an alternative plan to a GSP
20 under SGMA following approval by DWR.⁵

21 **III. PROCEDURAL STATUS**

22 The filing of the Complaint on January 30, 2020 and the Court’s granting of BWD’s
23 Motion for Approval of Notice of Adjudication and Form Answer on July 20, 2020 established
24 numerous notice requirements and deadlines with which BWD has complied. BWD’s
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27 ⁵ BWD has submitted the proposed Stipulated Judgment as an alternative plan to DWR for
28 review and approval pursuant to Water Code sections 10733.6 and 10737.4. DWR has informed
the Settling Parties that it will provide a written preliminary evaluation of the proposed Stipulated
Judgment serving as a GSP alternative by late-March or early-April.

1 compliance with the notice and service requirements required by Sections 835, 836, and 836.5 is
2 set forth below.

3 A. Settlement Defendants – Service and Appearances

4 Pursuant to the Settlement Agreement, the Settlement Defendants agreed to accept
5 electronic service of process and BWD served them on March 30, 2020. They are listed below.

6 Settlement Defendant	7 Answer Filed
8 David and Juli Bauer, Co-Trustees of the D&K Bauer Family Trust 9 11-18-04	9/3/2020
10 William M. Bauer	9/3/2020
11 Borrego Nazareth LLC	10/14/2020
12 Borrego Unified School District	10/30/2020
13 Roy Brisbois, Trustee of the Conzelman Family Trust A 11-22-83	9/3/2020
14 Steven Mohler, Trustee of the Conzelman Family Trust C 11-22-83	9/3/2020
15 Ronald J. Jensen, Trustee of the Jensen Family Trust 8-05-83	9/3/2020
16 James Sommerville, Trustee of the Sommerville trust 11-22-83	9/3/2020
17 CWC Casa Del Zorro, LLC	
18 John Doljanin	9/4/2020
19 JM Roadrunner, LLC	9/3/2020
20 Lance Lundberg, Trustee of the Lundberg Family Trust 10-01-98	
21 Monica Real Estate Holdings, L.P.	
22 Gamini D. Weerasekera	9/3/2020
23 Seley Ranches, L.P.	9/3/2020
24 Shenandoah Growers, Inc.	9/3/2020
25 T2 Borrego LLC	9/9/2020
26 T2 Farms LLC	9/9/2020
27 T2 Holdings LLC	9/9/2020
28 The Roadrunner Club at Borrego, LP	

1	The Springs RV and Golf Resort, LP	
2	Trojan Citrus, LLC	9/3/2020

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4 B. Non-Settlement Defendants – Service and Appearances

5 On August 18, 2020, BWD served the non-settlement defendants listed below via mail
6 and notice and acknowledgment (in lieu of personal service due to Covid-19 constraints), with the
7 following documents: Civil Case Cover Sheet; Complaint; Alternative Dispute Resolution
8 (ADR) packet; Court Approved Notice of Adjudication; [this serves as an alternative to
9 Summons per Section 836(c) (“Once the court approves the draft notice, service of that notice in
10 accordance with this section shall substitute for the summons otherwise provided for in civil
11 actions pursuant to Section 412.20.”)]; Court Approved Form Answer to Adjudication
12 Complaint; Notice of Ruling on 7/20/20; Notice of 7/16/20 Minute Order; Notice of 6/16/20
13 Minute Order; Notice of 6/9/20 Minute Order; Notice and Acknowledgment of Receipt
14 (“NAK”).

15	Non-Settling Defendants	Dated Served	Answer Filed
16	Agri-Empire	9/4/2020 NAK	
17	Rick and Joan Anson, Co-Trustees of the Anson Family Trust 08-18-08	9/4/2020 NAK	
18	Anza-Borrego Desert State Park	9/8/2020 NAK	10/6/2020
19	Alan and Tracy Asche	8/20/2020 NAK	
20	Gary D. and Darlis A. Bailey	9/11/2020 NAK	
21	Borrego Air Ranch Mutual Water & Improvement Co. [intends to become a settlement party]	9/9/2020 NAK	11/4/2020
22	Raymond A, Carpenter and Susan R. Carpenter, Co- Trustees of the Carpenter Family Trust 12-11-07	9/17/2020 NAK	9/18/2020 (not filed)
23	Scott M. Crumrine and Stacey L. Crumrine, Co- Trustees of the Crumrine Family Trust 04-19-06		9/16/2020
24	De Anza Desert Country Club	9/8/2020 NAK	9/22/2020
25	Genus, L.P.	personally served (sub-served) and mailed served on October 17 and 20, 2020	
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27			
28			

1	John B. and Silvia H. Hogan	9/3/2020 NAK	
2	Edward Kitchen (Deceased – dismissed, heir substituted as Roe 2)	N/A	
3	Michael Maiter and John Savittieri	8/24/2020 NAK	
4	Manuel and Araceli Navarro	9/30/2020 NAK [Manuel only, additional attempt re Araceli]	
5			
6	Doug and Patricia Munson	9/11/2020 NAK	
7	Ronald Pecoff [intends to become settlement defendant]	10/22/2020 NAK	
8	RTA Borrego Valley, LLC	In progress: agent/counsel not cooperating	
9			
10	Jose G. and Maria E. Sanchez [still attempting to locate and serve]	In progress: attempting to locate and serve	
11			
12	Max Siefker	10/14/20 NAK	
13	Brian Siefker, Trustee of the Brian Siefker Trust 12-18-01	10/14/20 NAK	
14	Kent R. Smith, Trustee of the Smith Kent R. Revocable Living Trust 01-04-90	9/1/2020 NAK	
15	Joel Vanasdlen	In progress: attempting to locate and serve	
16	Michael C. Ward	9/23/2020 NAK	10/7/2020
17	Gabriel Wisdom, Trustee of the Wisdom Gabriel B&Weis Wisdom Diana Family 2009 Trust 08-01-08	8/28/2020 NAK	
18	Wright Family Living Trust 06-19-89	9/9/2020 NAK	
19	Roe 1 - Desert Star Farm, LLC	awaiting Court's Order to amend	11/3/2020
20	Roe 2 - Robert Larkins (heir to Edward Kitchen, deceased)	awaiting Court's Order to amend	

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22 C. Additional Appearances by Overlying Landowners

23	Overlying Landowners	Answer Date
24	Marilee Hawkins Cherry	10/6/2020
25	Natalie J. Ginsburg	10/30/2020
26	Jamie Jo Lewis	10/13/2020
27	Cary D. Lowe	9/28/2020

1	Eric Nessa, Nessa Rice & Nicole Trust 5-23-19	9/21/2020
2	Murdia Rogers	10/14/2020
3	Charles S. and Patricia Smith, Trustees of Charles and Patricia Smith	10/6/2020
4	Trust, Declaration of Trust Dated 1-23-12	
5	Westcore Borrego, LLC	11/12/2020

7 D. Overlying Landowners who have Served Answers that do not yet Appear on
8 the Court's Register of Actions

9	Overlying Landowners	<u>Answer Date</u>
10	Michael A. Aguiar	9/30/2020
11	Bruce A. and Mary A. Anderson, Anderson Family Trust 4-6-98	9/21/2020, subsequently requested not to participate in the lawsuit
12		
13		
14	BHLC, LLC	9/25/2020
15	Mary Janet Johnson and Janet Johnson Revocable Trust 11-10-16	9/21/2020
16	Leibert David G. and Wood Cynthia A. Trust	9/24/2020
17	Provident Trust Group LLC FBO Judith A. Nelson 401k	11/7/2020

19 E. Notice after Filing Complaint

20 Section 835 requires that BWD provide notice of the comprehensive adjudication to
21 various entities within 15 days of filing the complaint. Those entities include, any groundwater
22 sustainability agency, city, or county that overlies the basin or portion of the basin; a district with
23 the authority to manage or replenish groundwater resources of the basin; the operator of a public
24 water system or state small water system that uses groundwater from the basin to supply water
25 service; the Attorney General, the State Water Resources Control Board, and the Department of
26 Fish and Wildlife.

27 Accordingly, and in compliance with Section 835, on February 14, 2020 BWD sent
28 notice letters, which included a link to BWD's Complaint and Notice of Adjudication via e-mail

1 and/or U.S. Mail to the following entities: San Diego County Counsel; Borrego Air Ranch
2 Mutual Water Improvement Co.; California Office of the Attorney General; California State
3 Water Resources Control Board; California Department of Water Resources; and California
4 Department of Fish and Wildlife.

5 F. State Board Reporting Data

6 Pursuant to Section 836.5(a), on August 4, 2020, BWD requested that the State Water
7 Resources Control Board provide the names, mailing addresses, and email addresses, if
8 available, of persons reporting extractions in the Basin within 45 days of the date of the notice
9 letter. In addition, BWD requested that the State Board also provide the names, mailing
10 addresses, and email addresses, if available, of any persons known to hold a permit or license
11 authorizing underground storage or who claims a right to divert water for underground storage .

12 On September 18, 2020, BWD received a response from the State Water Resources
13 Control Board that it has not received any extraction reports from the Basin, so no further action
14 by BWD is required.

15 G. Adjudication Website

16 BWD has established and routinely updates, through its notice vendor, an adjudication
17 website with answers to frequently asked questions, key dates, important documents and contact
18 information, available at: <https://www.borregowaterlawsuit.com/>.

19 H. Newspaper Notice

20 Section 836(d)(1)(D) requires that “[f]ollowing a court order approving the notice and
21 form answer...the plaintiff shall[w]ithin 20 days of the court order, publish the notice at least
22 once per week for four consecutive weeks in one or more newspapers of general circulation in
23 each county overlying the basin in whole or in part.”

24 Accordingly, BWD published the Notice of Commencement of Groundwater Basin
25 Adjudication (Notice of Adjudication) in The Uptown San Diego Examiner on the following
26 days: August 7, 14, 21, and 28, 2020 (four consecutive weeks).

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1 I. Required Website Postings of Notice of Adjudication and Form Answer

2 On August 4, 2020, in accordance with Section 836(m), BWD sent a notice letter,
3 including the Notice of Adjudication and Form Answer, to the County of San Diego (County) and
4 to DWR. BWD, DWR, and the County were then required to post the Notice of Adjudication and
5 Form answer to their website within fifteen days and have complied accordingly:

- 6
- 7 1. BWD - posted as of August 19, 2020 at <http://www.bvgsp.org/judgment.html>
 - 8 2. County - posted as of August 14, 2020 at
9 <https://www.sandiegocounty.gov/pds/SGMA.html>
 3. DWR – posted as of August 14, 2020 at
<https://water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management/Adjudicated-Areas>

10 J. Notice to SGMA Interested Parties List

11 BWD requested that the County provide a list of “interested parties” maintained pursuant
12 to SGMA so that BWD could provide notice to those interested parties as required by Section
13 835(a)(9). The County provided that list of interested parties, and on February 28, 2020, BWD
14 sent a notice letter to them via email (900+ recipients).

15 K. Notice to Tribal Interests

16 Section 835(a)(5) requires that BWD give notice to “[a] California Native American tribe
17 that is on the contact list maintained by the Native American Heritage Commission” of its
18 comprehensive adjudication basins within 15 days of filing the complaint. On January 22, 2020,
19 BWD sent a letter via email and mail to the Native American Heritage Commission (“NAHC”)
20 requesting that they provide a list of California Native American tribes, if, any, with interests
21 located within the subject area. On February 6, 2020, NAHC sent BWD its list of Native
22 American tribes that have cultural and traditional affiliation within the boundaries of the subject
23 area.

24 On February 14, 2020, BWD sent notice letters to the following tribes: Aqua Caliente
25 Band of Cahuilla Indians; Augustine Band of Cahuilla Mission Indians; Cabazon Band of
26 Mission Indians; Campo Band of Diegueno Mission Indians; Barona Group of the Captain
27 Grande; Cahuilla Band of Indians; Ewiiapaayp Band of Kumeyaay Indians; Iipay Nation of
28 Santa Ysabel; Inaja Cosmit Band of Indians; Jamal Indian Village; Kwaaymii Laguna Band of

1 Indians; La Posta Band of Diegueno Mission Indians; Los Coyotes Band of Cahuilla and Cupeno
2 Indians; Manzanita Band of Kumeyaay Nation; Mesa Grande Band of Diegueno Mission
3 Indians; Morongo Band of Mission Indians; Pala Band of Mission Indians; Quechan Tribe of the
4 Fort Yuma Reservation; Ramona Band of Cahuilla; San Pasqual Band of Diegueno Mission
5 Indians; Santa Rosa Band of Cahuilla Indians; Soboba Band of Luiseno Indians; Sycuan Band of
6 the Kumeyaay Nation; Torres-Martinez Desert Cahuilla Indians; and Viejas Band of Kumeyaay
7 Indians.

8 L. Notice to Overlying Landowners

9 Section 836(d)(1)(A) requires, following the order approving the notice of adjudication
10 and form answer and authorizing the mail service of overlying landowners, that BWD identify the
11 assessor parcel numbers and physical addresses of all real property in the basin and the names and
12 addresses of all holders of fee title to real property in the basin using the records of the assessor or
13 assessors of the county or counties in which the basin to be adjudicated lies. BWD provides
14 notice herein to the Court and the parties that it obtained this information from the County on
15 July 22, 2020.

16 Section 836(d)(1)(B) requires BWD to mail, by registered mail or certified mail, return
17 receipt requested, the notice, complaint, and form answer to all holders of fee title to real property
18 in the basin. If the physical address of the real property differs from the address of the holder of
19 fee title, the notice, complaint, and form answer shall be mailed by registered or certified mail,
20 return receipt requested, to the physical address of the real property and the address of the holder
21 of fee title. Beginning in September 2020, a total of 4,767 notices were mailed by certified mail,
22 return receipt requested, to all holders of fee title to real property in the Basin: 2,787 notices have
23 been successfully delivered with 1,763 notices having been returned undeliverable. There are 202
24 notices still pending with the U.S. Postal Service as of November 11, 2020.

25 Pursuant to Section 836(d)(1)(C), if return receipts are not received, BWD shall post a
26 copy of the notice, complaint, and form answer, in a conspicuous place on the real property.
27 Posting and/or staking on properties for which a receipt has not been received is anticipated to
28 commence the week of November 9, 2020, to be completed as soon as is practicable.

1 **IV. CONTENTIONS OF THE SETTLING PARTIES**

2 Once BWD has completed the ongoing process to notify all potential claimants of Basin
3 groundwater and storage rights about the comprehensive adjudication and files a notice of
4 completion under Section 836(e), the Settling Parties will file a motion for entry of the proposed
5 Stipulated Judgment under Section 850 in February 2021 (proposed to be heard in March). If
6 there is opposition to the motion, and if the opposition necessitates a protracted time to prepare
7 for and proceed to a trial, the Settling Parties may request a preliminary injunction under Section
8 847 to seek application of the proposed Stipulated Judgment on an interim basis pending the
9 resolution of the opposition.

10 The Court is authorized to enter a judgment under Section 850 if the court finds that the
11 judgment meets all of the following criteria: (1) it is consistent with section 2 of Article X of the
12 California Constitution; (2) it is consistent with the water right priorities of all non-stipulating
13 parties and any persons who have claims that are exempted pursuant to section 833 in the basin;
14 and (3) it treats all objecting parties and any persons who have claims that are exempted pursuant
15 to section 833 equitably as compared to the stipulating parties. (Code Civ. Proc. § 850(a).) If a
16 proposed stipulated judgment is supported by more than 50 percent of all parties to the action
17 who are groundwater extractors in the basin or use the basin for groundwater storage and is
18 supported by groundwater extractors responsible for at least 75 percent of the groundwater
19 extracted in the basin during the five calendar years before the filing of the complaint, the Court
20 may adopt the proposed stipulated judgment if the proposed stipulated judgment meets the criteria
21 described above. (Code Civ. Proc. § 850(b).) The Stipulating Parties believe that they will
22 satisfy these percentage criteria and will submit evidence thereof within the motion for entry of
23 judgment.

24 Under Section 847, the Court has the authority to issue a preliminary injunction that
25 mandates interim management of the Basin during the pendency of the action. If there is
26 opposition to the proposed Stipulated Judgment, and a trial thereon is required, the Settling
27 Parties may seek a preliminary injunction under Section 847.

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1 **V. SPECIAL CONSIDERATIONS FOR THE COURT**

2 A. Electronic Service

3 The Settlement Defendants have consented to electronic service in this matter through the
4 Settlement Agreement and as required by Section 839:

5 Service of pleadings and papers in a comprehensive adjudication,
6 other than the complaint initiating a comprehensive adjudication,
7 shall occur electronically to the greatest extent possible. The court
8 may provide, or authorize the use of, an electronic service system.
9 If an electronic service system is not provided or authorized by the
10 court, the court and the parties shall serve documents by email or
11 other equivalent electronic means to the greatest extent possible.
12 To enable electronic service of pleadings and papers, the attorneys
13 of record or parties representing themselves shall include an email
14 address for service in the captions of all pleadings they file in the
15 comprehensive adjudication.

16 The Settling Parties request that the Court provide or authorize the use of an electronic
17 service system applicable to all parties in this case.

18 B. Stipulation to Physical Solution

19 A number of Defendants are interested in stipulating to the proposed Stipulated Judgment
20 in lieu of filing an answer or other responsive pleading. The Settling Parties request that the
21 Court enter an order allowing property owners to file a stipulation for entry of Judgment, in lieu
22 of filing an answer and require a \$20 stipulation filing fee rather than a \$435 first appearance fee.⁶

23 C. Uniform Deadline to Respond to Complaint

24 Due to the logistical challenges of case and party management of thousands of potential
25 defendants, the Settling Parties request that the Court establish a uniform deadline of February 5,
26 2012, for all defendants served and all landowners noticed by December 4, 2020, to respond to
27 BWD's Complaint, e.g., to file an answer, stipulation for entry of Judgment, or other responsive
28 pleading. This will give each defendant and landowner at least 60 days to respond to the
complaint as set forth in BWD's Notice of Adjudication as required by the Statute.

⁶ Precedent exists to grant this request as a similar order was entered in the Ventura River Watershed Adjudication, Santa Barbara Channelkeeper v. State Water Resources Control Board, Los Angeles Superior Court, Case No. 19STCP01176.

1 **VI. PROPOSED CASE SCHEDULE AND REQUEST FOR (1) FURTHER CASE**
 2 **MANAGEMENT CONFERENCE AND (2) MOTION HEARING DATE**

3 The Settling Parties request that the Court (1) set a further Status Conference for
 4 December to address any outstanding service and notice issues; (2) set a Case Management
 5 Conference for February 2021; and (3) reserve a hearing date in March 2021 for the Settling
 6 Parties' motion to enter the Stipulated Judgment. This would facilitate the following proposed
 7 case schedule:

- 8 1. December 4, 2020: anticipated date for completion of service and notice pursuant
 9 to Section 836 and BWD's filing of a notice of completion pursuant to Section
 10 836(e).⁷
- 11 2. Further Status Conference set in December 2020 to address service and notice
 12 issues.
- 13 3. February 5, 2021: Deadline for all defendants served and all landowners noticed
 14 by December 4, 2020, to respond to BWD's Complaint as requested above.
- 15 4. Case Management Conference set on or after February 11, 2020.
- 16 5. Hearing set on or after March 9, 2021 to afford sufficient time for service of the
 17 motion for entry of the Stipulated Judgment consistent with Section 1005.

18 Once a judgment is entered, BWD will submit it to DWR for final evaluation and
 19 assessment as an alternative plan to a GSP under SGMA pursuant to Section 10737.4(a)(1) of the
 20 Water Code. Should DWR recommend any modifications to the judgment (*see* Water Code §
 21 10737.6), the Court can consider those proposed changes under the Court's continuing
 22 jurisdiction pursuant to Section 852.


23 The Settling Parties look forward to further discussing this case and the schedule and
 24 other matters discussed above at the November 20, 2020 Case Management Conference.

25 _____
 26 ⁷ Although the Settling Parties anticipate that all notices required pursuant to Section 836 will
 27 be complete by this date, the appearance date will be extended for any parties not so noticed by
 28 this date due to unanticipated delays to afford the full 60-day appearance period set forth in the
 notice. The Settling Parties will not file the motion for entry of judgment until 60 days has run
 from the date BWD files the notice of completion required by Section 836(e). Should dates need
 to be rescheduled due to unanticipated delays, such scheduling issues can be addressed at the
 February Case Management Conference.

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Dated: November 13, 2020

BEST BEST & KRIEGER LLP

By: 

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

Dated: November 13, 2020

O'MELVENY & MYERS LLP

By: */s/ Russell McGlothlin*

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

1 Dated: November 13, 2020

JACKSON TIDUS

2
3 By: /s/ Michele A. Staples

4 MICHELE A. STAPLES
5 GREGORY P. REGIER
6 BOYD L. HILL
7 Attorneys for Defendants
8 DAVID AND JULI BAUER, AS
9 TRUSTEES OF THE D&J BAUER
10 FAMILY TRUST
11 11-18-04; WILLIAM M. BAUER, an
12 individual; JM ROADRUNNER, LLC, a
13 California limited liability company; SELEY
14 RANCHES, L.P., a California limited
15 partnership; SHENANDOAH GROWERS,
16 INC., a Virginia corporation; TROJAN
17 CITRUS, LLC, a California limited liability
18 company; GAMINI D. WEERASEKERA, an
19 individual and owner and manager of
20 Mountain Springs Organics, LLC, a
21 California limited liability company; THE
22 JENSEN FAMILY TRUST DATED
23 AUGUST 5, 1983; THE SOMMERVILLE
24 TRUST DATED NOVEMBER 22, 1983;
25 TRUST A OF THE CONZELMAN
26 FAMILY TRUST DATED NOVEMBER 22,
27 1983; TRUST C OF THE CONZELMAN
28 FAMILY TRUST DATED NOVEMBER 22,
1983; MICHAEL C. WARD

BEST BEST & KRIEGER LLP

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
7 November 13, 2020, I served a copy of the within document(s):

8 **JOINT STATUS CONFERENCE STATEMENT**

- 9
- 10 **By United States mail.** I enclosed the documents in a sealed envelope or package
addressed to the persons at the addresses listed below (specify one):
- 11 Deposited the sealed envelope with the United States Postal Service, with
12 the postage fully prepaid.
- 13 Placed the envelope for collection and mailing, following our ordinary
14 business practices. I am readily familiar with this business's practice for
collecting and processing correspondence for mailing. On the same day that
15 correspondence is placed for collection and mailing, it is deposited in the
ordinary course of business with the United States Postal Service, in a
16 sealed envelope with postage fully prepaid.

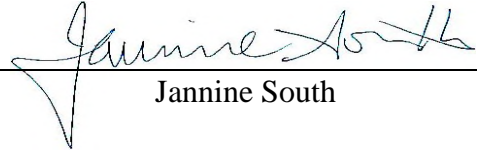
17 I am a resident or employed in the county where the mailing occurred. The
18 envelope or package was placed in the mail at San Diego, California.

- 19 **By overnight delivery.** I enclosed the documents in an envelope or package
20 provided by an overnight delivery carrier and addressed to the persons at the
addresses listed below. I placed the envelope or package for collection and
21 overnight delivery at an office or a regularly utilized drop box of the overnight
delivery carrier.
- 22 **By e-mail or electronic transmission.** Based on an agreement of the parties to
23 accept service by e-mail or electronic transmission, I caused the documents to be
sent to the persons at the e-mail addresses listed below. I did not receive, within a
24 reasonable time after the transmission, any electronic message or other indication
that the transmission was unsuccessful.

PLEASE SEE ATTACHED SERVICE LIST

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

Executed on November 13, 2020, at San Diego, California.



A handwritten signature in cursive script, appearing to read "Jannine South", is written over a horizontal line.

Jannine South

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SERVICE LIST

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

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WILLIAM M. BAUER, an individual	
JM ROADRUNNER, LLC, a California limited liability company	
SELEY RANCHES, L.P., a California limited partnership	
SHENANDOAH GROWERS, INC., a Virginia corporation	
TROJAN CITRUS, LLC, a California limited liability company	
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	

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