

RESOLUTION NO. 21-02
OF THE BOARD OF DIRECTORS OF THE BORREGO SPRINGS WATERMASTER
TO ESTABLISH A PROCESS TO APPROVE OR DENY APPLICATIONS FOR NEW DE MINIMIS PUMPING
IN THE BORREGO SPRINGS SUBBASIN

WHEREAS, a Stipulated Judgment (Judgment) was entered in the Superior Court of California on April 8, 2021 that determined and adjudicated all groundwater rights in the Borrego Springs Subbasin (Subbasin) and established the Borrego Springs Watermaster (Watermaster) to administer and enforce the provisions of the Judgment including its Physical Solution.

WHEREAS, the Judgment defines a De Minimis Pumper as "any Party who pumps two acre-feet or less per year for use on real property overlying the Basin.

WHEREAS, Section III.H of the Judgment states: "...All persons who are not Pumping as of the date of filing the Complaint who seek to initiate Pumping as a De Minimis Pumper in the future shall submit an application to the Watermaster and the Watermaster shall determine whether the proposed Pumping will contribute to or threaten to contribute to Undesirable Results or other interest related to the Basin, and the application shall be denied if it contributes to or threatens to contribute to Undesirable Results or other interest related to the Basin..."

WHEREAS, the County of San Diego Department of Environmental Health & Quality (DEHQ) is responsible for reviewing applications and issuing permits for the construction of new water wells in San Diego County.

WHEREAS, the DEHQ requires any person or party that applies for a permit to construct a new water well in the Subbasin to obtain approval from the Watermaster prior to DEHQ issuing the permit.

NOW, THEREFORE, be it resolved by the Board of Directors of the Borrego Springs Watermaster, that:

1. The Board of Directors hereby establishes the process to approve or deny applications for new De Minimis Pumping in the Borrego Springs Subbasin that complies with Section III.H of the Judgment, as described in the attached Exhibit 1.
2. The Board of Directors hereby approves the application form for New De Minimis Pumping in the Borrego Springs Subbasin in the attached Exhibit 2.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the Borrego Springs Watermaster held on the 9th day of December 2021, by the following vote:

AYES: Duncan, Smith, Seley, Jorgensen, Bennett

NOES:

ABSENT:



David Duncan, Chairperson
Board of Directors



Shannon Smith, Secretary of the Board
ATTEST

**PROCESS TO APPROVE OR DENY APPLICATIONS
FOR NEW DE MINIMIS PUMPING IN THE BORREGO SPRINGS SUBBASIN**

The applicant for new De Minimis Pumping will need to complete two (2) forms and submit them to the Watermaster:

- i. A County of San Diego Department of Environmental Health & Quality (DEHQ) permit application for construction of new domestic water well. The DEHQ permit application is available on the DEHQ [website](#).¹ Applicants are required to submit certain information about the proposed new well on the DEHQ permit application. This information will assist the Watermaster in its determination of whether the proposed new De Minimis Pumping will contribute to or threaten to contribute to Undesirable Results or other interest related to the Borrego Springs Subbasin (see 3. below).
- ii. A Watermaster application for New De Minimis Pumping in the Borrego Springs Subbasin (a draft application is enclosed as Exhibit 2 of Resolution 21-02). The Watermaster application will be made available on the Watermaster website, and will ask the proposed new De Minimis Pumper for the following:
 - a. A commitment that the pumping rate from the well will be equal to or less than two acre-feet per year.
 - b. A commitment that the well will be drilled, constructed, and developed by a California-licensed well drilling contractor.
 - c. A commitment to install and maintain a calibrated totalizing in-line flow meter on the well's discharge piping to measure the volume of groundwater pumped by the well.
 - d. A commitment to submit to Watermaster the following information upon well and wellhead completion:
 - (1) The Well Driller's Log with the as-built well construction information.
 - (2) Flow meter information, including: manufacturer; meter name, model number, serial number; units of measurement; and a photograph of the flow meter face and meter reading prior to well startup.
 - (3) Other information and data associated with well construction, including but not limited to: well development data (e.g. pumping rates, depth-to-water measurements); water-quality test results; the final pumping rate.
 - e. A commitment to provide Watermaster access to the well for semi-annual meter reading in April and October. The well owner will report semi-annual

¹ https://www.sandiegocounty.gov/content/sdc/deh/lwqd/lu_water_wells.html

meter reads to the Watermaster in January and July, including a photograph of the meter reading.

- f. A commitment to pay Watermaster fees:²
 - (1) A one-time fee to cover the Watermaster's costs for application processing and the evaluation for Undesirable Results (see 2. below).
 - (2) An annual fee to cover the Watermaster's costs for semi-annual meter reading. This fee will be pro-rated in the first year depending on the date of well completion relative to the beginning of the water year (October 1).
- g. Signature of the applicant.

- 2. Watermaster Staff will provide a copy of the application to the Borrego Water District.
- 3. Watermaster Staff will determine whether the proposed new De Minimis Pumping will contribute to or threaten to contribute to Undesirable Results or other interest related to the Basin. This determination will be conducted on a case-by-case basis and would consider all information provided on the proposed well, its proximity to other wells, and total De Minimis Pumping that occurs within the subbasin, among other factors. Section I.A.60 of the Judgment defines *Undesirable Results* consistent with Water Code section 10721[x].
 - a. If Watermaster Staff determines that the new De Minimis Pumping **will** contribute to or threaten to contribute to Undesirable Results or other interest related to the Borrego Springs Subbasin, then the applicant and the DEHQ will be notified, with technical explanation, and the new De Minimis Pumping application will be denied.
 - b. If Watermaster Staff determines that the new De Minimis Pumping **will not** contribute to or threaten to contribute to Undesirable Results or other interest related to the Borrego Springs Subbasin, then the application process continues as described below.
- 4. Watermaster Staff will invoice and collect the one-time application fee from the applicant (1.ii.f.(1) above).
- 5. The Chairperson of the Watermaster Board will sign the application signifying Watermaster approval and the determination that the new De Minimis Pumping **will not** contribute to or threaten to contribute to Undesirable Results or other interest related to the Borrego Springs Subbasin.
- 6. Watermaster staff will send the signed permit application to the applicant with a cover letter that outlines their commitments to the Watermaster (1.ii. above). The applicant will need the signed Watermaster permit application to complete the DEHQ permit application for construction of the new water well.

² Watermaster fees will be calculated and invoiced to the applicant on a case-by-case basis and will be dependent on the staff time required to execute the work and the current hourly rate schedule for staff as approved by the Watermaster Board.

7. If Watermaster Staff denies the application, the applicant shall be provided thirty (30) days from the date of the notice of denial to file a written appeal of that Staff decision to the Watermaster Board. That Board shall conduct a hearing on that appeal within forty-five (45) days of its receipt and shall either affirm or deny the appeal by Resolution containing appropriate findings of fact and legal conclusions. If the Watermaster Board affirms the denial of the application, the applicant may appeal that denial to the Court within ninety (90) days of the date of the Watermaster Board action and that appeal shall be conducted in accordance with Section VII A. 1. of the Judgment. If the application is approved at any stage of the appellate process established in this paragraph 6, the Watermaster Staff will then collect, and the applicant will pay, the one-time application fee and the Chairperson of the Watermaster Board shall then sign the Watermaster application.

**APPLICATION FOR NEW DE MINIMIS PUMPING
IN THE BORREGO SPRINGS SUBBASIN**

BORREGO SPRINGS WATERMASTER
23692 Birtcher Drive Lake Forest, CA 92630
Tel. 949-420-3030
BorregoSpringsWM@westyost.com

The adjudication of groundwater pumping rights in the Borrego Springs Subbasin was filed in the Superior Court of California on April 8, 2021: *Borrego Water District v. All Persons Who Claim a Right To Extract Groundwater in the Borrego Valley Groundwater Subbasin No. 7.024 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; et al.* (Case No. [37-2020-00005776](#)). All persons who desire to become new De Minimis Pumpers of groundwater in the Subbasin after April 8, 2021 (*i.e.*, pumping of two acre-feet per year or less for use on real property overlying the Subbasin) must first obtain approval from the Watermaster prior to obtaining a well permit from the County of San Diego. Follow the instructions below to seek Watermaster approval:

1. Complete a **Water Well Permit Application** which is available on the San Diego County, Department of Environmental Health & Quality (DEHQ) [website](#). [Do not send the application to the DEHQ until you have received a signed copy of this application for New De Minimis Pumping from the Borrego Springs Watermaster]
2. Complete and sign this application.
3. Submit both applications to the Borrego Springs Watermaster at the mailing or email address above.

Applicant Name: _____ APN for Well Location: _____

Mailing Address: _____

Phone: _____ Email: _____

I hereby commit to the following as a new De Minimis Pumper in the Borrego Springs Subbasin:

- The pumping rate from the well will always be equal to or less than two (2) acre-feet per year.
- The new well will be constructed by a California-licensed well drilling contractor.
- I will install and maintain a calibrated totalizing in-line flow meter on the well's discharge piping pursuant to Watermaster's well metering regulations.
- I will submit the following information to Watermaster upon well and flow-meter installation:
 - a. The Well Driller's Log with the as-built well construction information.
 - b. Flow-meter information, including: manufacturer; meter name, model number, serial number; units of measurement; and a photograph of the flow meter face and meter reading prior to well startup.
 - c. Other information and data associated with well construction including but not limited to: well development data (e.g. pumping rates, depth-to-water measurements); water-quality test results; the final pumping rate.
- I will provide Watermaster access to the well for meter reading in April and October each year.
- I will self-report meter reads to Watermaster in January and July each year.
- I agree to be invoiced, and pay to Watermaster, the following fees:
 - a. A one-time fee to cover the Watermaster's costs for application processing and the evaluation for Undesirable Results.
 - b. An annual fee to cover the Watermaster's costs for semi-annual meter reading.

Applicant Signature

Date

Chairperson of the Watermaster Board

Date

This *Application for New De Minimis Pumping in the Borrego Springs Subbasin* will be approved and signed under the following conditions: (i) Watermaster determination that the new De Minimis Pumping **will not** contribute to or threaten to contribute to Undesirable Results or other interest related to the Subbasin; (ii) your payment of the one-time fee to cover the Watermaster's costs for application processing and the evaluation for Undesirable Results (you will receive a separate invoice for the fee); and (iii) your future compliance with the commitments listed above. Non-compliance with any commitment on this application is grounds to revoke Watermaster approval.

You must submit a final approved copy of this application, signed by the Chairman of the Watermaster Board, to the San Diego County DEHQ to obtain approval of your **Water Well Permit Application**.