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8 Attorneys for Plaintiff  
BORREGO WATER DISTRICT

Exempt from Filing Fees Pursuant to  
Government Code section 6103

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN DIEGO

12 BORREGO WATER DISTRICT,  
13  
14 Plaintiff,

15 v.

16 ALL PERSONS WHO CLAIM A RIGHT TO  
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; AGRI-EMPIRE; RICK  
20 AND JOAN ANSON, co-trustees of the  
ANSON FAMILY TRUST 08-18-08; ANZA-  
21 BORREGO DESERT STATE PARK; ALAN  
& TRACY ASCHE; GARY D. & DARLIS A.  
22 BAILEY; DAVID AND JULI BAUER, co-  
trustees of the D&J BAUER FAMILY TRUST  
23 11-18-04; WILLIAM M. BAUER; BORREGO  
AIR RANCH MUTUAL WATER &  
24 IMPROVEMENT CO.; BORREGO  
NAZARETH, LLC; BORREGO UNIFIED  
25 SCHOOL DISTRICT; ROLAND J. JENSEN,  
trustee of the JENSEN FAMILY TRUST 8-5-  
26 83; RAYMOND A. CARPENTER AND  
SUSAN R. CARPENTER, co-trustees of the  
27 CARPENTER FAMILY TRUST 12-11-07;  
JAMES SOMMERVILLE, trustee of the  
28 SOMMERVILLE TRUST 11-22-83; ROY  
BRISBOIS, trustee of the CONZELMAN

Case No.

Judge:

Deemed Verified Pursuant to Cal. Civ. Proc.  
Code § 446

BORREGO WATER DISTRICT'S  
COMPLAINT FOR COMPREHENSIVE  
ADJUDICATION OF THE BORREGO  
VALLEY GROUNDWATER SUBBASIN  
NO. 7.024-01 PURSUANT TO SECTION  
830, *et seq.* OF THE CODE OF CIVIL  
PROCEDURE; PRELIMINARY  
INJUNCTION PURSUANT TO SECTION  
847 OF THE CODE OF CIVIL  
PROCEDURE

1 FAMILY TRUST A 11-22-83; STEVEN  
2 MOHLER, trustee of the CONZELMAN  
3 FAMILY TRUST C 11-22-83; SCOTT M.  
4 CRUMRINE AND STACEY L. CRUMRINE,  
5 co-trustees of the CRUMRINE FAMILY  
6 TRUST 04-19-06; CWC CASA DEL ZORRO,  
7 LLC; DE ANZA DESERT COUNTRY CLUB;  
8 JOHN DOLJANIN; GENUS, L.P.; JOHN B. &  
9 SILVIA H. HOGAN; JM ROADRUNNER,  
10 LLC; EDWARD KITCHEN; LANCE  
11 LUNDBERG, trustee of the LUNDBERG  
12 FAMILY TRUST 10-01-98; MICHAEL  
13 MAITER & JOHN SAVITTIERI; MANUEL  
14 & ARACELI C. NAVARRO; MONICA REAL  
15 ESTATE HOLDINGS, L.P.; DOUG &  
16 PATRICIA MUNSON; RONALD PECOFF;  
17 THE ROADRUNNER CLUB AT BORREGO,  
18 LP; RTA BORREGO, LLC; JOSE G. &  
19 MARIA E. SANCHEZ; SELEY RANCHES,  
20 L.P.; SHENANDOAH GROWERS, INC.;  
21 MAX SIEFKER; BRIAN SIEFKER, trustee of  
22 the BRIAN SIEFKER TRUST 12-18-01;  
23 KENT R. SMITH, trustee of the SMITH  
24 KENT R. REVOCABLE LIVING TRUST 01-  
25 04-90; THE SPRINGS RV AND GOLF  
26 RESORT, LP; T2 BORREGO LLC; T2  
27 FARMS LLC; T2 HOLDING LLC; TROJAN  
28 CITRUS, LLC; JOEL VANASDLEN;  
MICHAEL C. WARD; GAMINI D.  
WEERASEKERA; GABRIEL WISDOM,  
trustee of the WISDOM GABRIEL B&WEIS-  
WISDOM DIANA FAMILY 2008 TRUST 08-  
01-08; WILLIAM D. WRIGHT AND EDNA J.  
WRIGHT, co-trustees of the WRIGHT  
FAMILY LIVING TRUST 06-19-89; and  
ROES 1-5,000

Defendants.

1 COMPLAINT FOR COMPREHENSIVE ADJUDICATION

2 Plaintiff Borrego Water District (“BWD” or “District”) alleges as follows:

3 Introduction

4 1. This Complaint requests that the Court conduct a comprehensive adjudication  
5 pursuant to Title 10, Chapter 7 of the California Code of Civil Procedure (sections 830, *et seq.*),  
6 in which the Court would determine all rights to extract (aka pump) groundwater in the Borrego  
7 Valley Groundwater Subbasin No. 7.024-01 (“Borrego Basin” or “Basin”), whether based on  
8 appropriation, overlying right, or other basis of right, and all rights to use of storage space in the  
9 Basin; enter judgment based upon the criteria set forth in section 850 of the Code of Civil  
10 Procedure; impose a physical solution pursuant to section 849 of the Code of Civil Procedure; and  
11 issue a preliminary injunction pursuant to section 847 of the Code of Civil Procedure (the  
12 “Comprehensive Adjudication”).

13 2. The Comprehensive Adjudication is necessary to protect the limited water supply  
14 that is vital to the public health, safety, and welfare of all persons and entities that depend upon  
15 waters from the Basin, to ensure its reasonable use pursuant to Article X, section 2 of the  
16 California Constitution, and to sustainably manage the Basin pursuant to the Sustainable  
17 Groundwater Management Act (California Water Code sections 10720–10737.8, *et al.*)  
18 (“SGMA”).

19 Jurisdiction and Venue

20 3. This Court has subject matter jurisdiction to comprehensively adjudicate rights to  
21 extract groundwater in the Basin and use the Basin’s storage space, and to impose a physical  
22 solution in this action pursuant to Code of Civil Procedure section 834.

23 4. Venue is proper in this Court because the lands, water rights, and other real  
24 property that are subject of this action are located within the County of San Diego.

25 5. Pursuant to section 838 of the Code of Civil Procedure, any judge of San Diego  
26 County Superior Court is disqualified because San Diego County overlies the Basin.  
27 Accordingly, BWD requests that the Chairperson of the Judicial Council assign a judge to preside  
28 over all proceedings in this Comprehensive Adjudication. (Cal. Civ. Proc. Code § 838(a)(1).)



1 (c) Borrego Nazareth, LLC is a California limited liability company organized  
2 and existing under the laws of the State of California, operating Borrego Springs Resort and  
3 Circle Club, and doing business in San Diego County.

4 (d) Borrego Springs Unified School District is a California school district  
5 administered by the California Department of Education.

6 (e) Roland J. Jensen is trustee of the Jensen Family Trust dated 08-05-83, as to  
7 an undivided ownership interest of the various real property parcels comprising the following  
8 OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg Ranch, and  
9 Ranch Caterina.

10 (f) James Sommerville is trustee of the Sommerville Trust dated 11-22-83, as  
11 to an undivided ownership interest of the various real property parcels comprising the following  
12 OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg Ranch, and  
13 Ranch Caterina.

14 (g) Roy Brisbois is trustee of the Conzelman Family Trust A dated 11-22-83,  
15 as to an undivided ownership interest of the various real property parcels comprising the  
16 following OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg  
17 Ranch, and Ranch Caterina.

18 (h) Steven Mohler is trustee of the Conzelman Family Trust C dated 11-22-83,  
19 as to an undivided ownership interest of the various real property parcels comprising the  
20 following OASIS entities: Cogan Ranch, De Anza Ranch, Gable House, Gigi Ranch, Peg Leg  
21 Ranch, and Ranch Caterina.

22 (i) CWC Casa Del Zorro, LLC is a California limited liability company  
23 organized and existing under the laws of the State of California and doing business in San Diego  
24 County.

25 (j) John Doljanin is an individual and owner and operator of West Coast Trees  
26 LLC.

27 (k) JM Roadrunner, LLC is a California limited liability company organized  
28 and existing under the laws of the State of California and doing business in San Diego County.

1 (l) Lance Lundberg is trustee of the Lundberg Family Trust dated 10-01-98,  
2 formerly Lundavid, LLC.

3 (m) The Roadrunner Club at Borrego, LP is a California limited partnership  
4 organized and existing under the laws of the State of California, doing business in San Diego, and  
5 operating Roadrunner Golf & Country Club.

6 (n) Seley Ranches, L.P. is a California limited partnership organized and  
7 existing under the laws of the State of California and doing business in San Diego County.

8 (o) Shenandoah Growers, Inc. is a Virginia corporation organized and existing  
9 under the laws of the State of Virginia and doing business in San Diego County.

10 (p) The Springs RV and Golf Resort, LP is a California limited partnership  
11 organized and existing under the laws of the State of California and doing business in San Diego  
12 County, and operating the Springs at Borrego RV Resort and Golf Club.

13 (q) T2 Borrego LLC is a Colorado limited liability company organized and  
14 existing under the laws of the State of Colorado and doing business in San Diego County.

15 (r) T2 Farms LLC is a Colorado limited liability company organized and  
16 existing under the laws of the State of Colorado and doing business in San Diego County.

17 (s) T2 Holding LLC is a Colorado limited liability company organized and  
18 existing under the laws of the State of Colorado and doing business in San Diego County as T2 B  
19 Holding LLC.

20 (t) Trojan Citrus, LLC is a California limited liability company organized and  
21 existing under the laws of the State of California and doing business in San Diego County.

22 (u) Gamini D. Weerasekera is an individual and owner and manager of  
23 Mountain Spring Organics LLC.

24 **Other Defendants**

25 11. BWD is informed and believes that the following named defendants own an  
26 interest in one or more parcels in the Basin, and/or extract or store water in the Basin, and/or  
27 claim rights or interests in the Basin but have not yet, as of the date of filing this Complaint,  
28 entered into the Settlement Agreement and/or agreed to the Stipulated Judgment:

- 1 (a) Agri-Empire is a California corporation organized and existing under the  
2 laws of the State of California and doing business in San Diego County.
- 3 (b) Rick and Joan Anson are co-trustees of the Anson Family Trust dated 08-  
4 18-08.
- 5 (c) Anza-Borrego Desert State Park is a California State Park located in San  
6 Diego, Imperial, and Riverside Counties.
- 7 (d) Alan & Tracy Asche are individuals.
- 8 (e) Gary D. and Darlis A. Bailey are individuals.
- 9 (f) Borrego Air Ranch Mutual Water & Improvement Co. is a California  
10 corporation organized and existing under the laws of the State of California and doing business as  
11 a mutual water company in San Diego County.
- 12 (g) Raymond A. Carpenter and Susan R. Carpenter, are co-trustees of the  
13 Carpenter Family Trust dated 12-11-07.
- 14 (h) Scott M. Crumrine and Stacey L. Crumrine are co-trustees of the Crumrine  
15 Family Trust dated 04-19-06.
- 16 (i) De Anza Desert Country Club is a California corporation organized and  
17 existing under the laws of the State of California and doing business in San Diego County.
- 18 (j) Genus, L.P. is a California limited partnership organized and existing under  
19 the laws of the State of California and doing business in San Diego County.
- 20 (k) John B. & Silvia H. Hogan are individuals.
- 21 (l) Edward Kitchen is an individual.
- 22 (m) Michael Maiter are John Savittieri are individuals.
- 23 (n) Manuel and Araceli C. Navarro are individuals.
- 24 (o) Monica Real Estate Holdings, L.P. is a California limited partnership  
25 organized and existing under the laws of the State of California and doing business in San Diego  
26 County.
- 27 (p) Doug and Patricia Munson are individuals.
- 28 (q) Ronald Pecoff is an individual.

1 (r) RTA Borrego, LLC is a California limited liability company organized and  
2 existing under the laws of the State of California and doing business in San Diego County.

3 (s) Jose G. and Maria E. Sanchez are individuals.

4 (t) Max Siefker is an individual.

5 (u) Brian Siefker is trustee of the Brian Siefker Trust dated 12-18-01.

6 (v) Kent R. Smith is trustee of the Smith Kent R. Revocable Living Trust  
7 dated 01-04-90.

8 (w) Joel Vanasdlen is an individual.

9 (x) Michael C. Ward is an individual.

10 (y) Gabriel Wisdom is trustee of the Wisdom Gabriel B & Weis-Wisdom  
11 Diana Family 2008 Trust dated 08-01-08.

12 (z) William D. Wright and Edna J. Wright are co-trustees of the Wright  
13 Family Living Trust dated 06-19-89.

#### 14 Roe Defendants

15 12. BWD is informed and believes that Defendant Roes 1 through 5,000 are the  
16 owners, lessees, or other persons or entities (i) holding or claiming to hold ownership or  
17 possessory interests in real property overlying the Basin; (ii) extracting water from the Basin; (iii)  
18 claiming some right, title, or interest to water located within the Basin; and/or (iv) having or  
19 claiming the right to extract and/or store groundwater in the Basin.

20 13. BWD is unaware of the true names and capacities of Defendants Roes 1 through  
21 5,000. When BWD becomes aware of their true names and capacities, it will seek leave of court  
22 to amend this Complaint accordingly.

#### 23 Notice of Comprehensive Adjudication

24 14. Pursuant to Code of Civil Procedure section 836, BWD lodged with the court a  
25 draft Notice titled "NOTICE OF COMMENCEMENT OF GROUNDWATER BASIN  
26 ADJUDICATION" and draft Form Answer titled "ANSWER TO ADJUDICATION  
27 COMPLAINT." Copies of the draft Notice and draft Form Answer are available at  
28 <http://www.borregowd.org/judgment>.









1           35.     BWD and each of the Defendants are extracting and/or storing or have extracted  
2 and/or stored groundwater from or in the Basin and/or may claim rights to so extract and/or store  
3 groundwater from or in the Basin.

4           36.     BWD has the right to utilize water from the Basin to meet existing public water  
5 needs and also to utilize increased amounts of water from the Basin as necessary to meet future  
6 public needs.

7           37.     BWD's rights to the Basin's water exist both as a result of the priority and extent  
8 of its appropriative and prescriptive rights.

9           38.     Disputes have arisen regarding the parties' respective rights to extract groundwater  
10 from the Borrego Basin.

11          39.     There are conflicting and competing claims of rights to extract groundwater from  
12 and store groundwater in the Basin.

13          40.     This action is necessary to comprehensively determine and adjudicate all  
14 groundwater rights in the Basin and provide a physical solution for the perpetual and continuous  
15 management of the Basin, which perpetual management will achieve sustainable groundwater  
16 management for the Basin consistent with the substantive objectives of SGMA and with the  
17 reasonable and beneficial use doctrine under Article X, section 2 of the California Constitution.

18          41.     BWD and Settlement Defendants have proposed and will submit for court  
19 approval a Stipulated Judgment and physical solution that is anticipated to be supported by more  
20 than 50 percent of all parties who are groundwater extractors in the Basin or use the Basin for  
21 groundwater storage and is supported by groundwater extractors responsible for at least 75  
22 percent of the groundwater extracted in the Basin during the five calendar years before the filing  
23 of the Complaint in accordance with subdivision (b) of section 850 of the Code of Civil  
24 Procedure, in which case the court may impose upon the BWD, Settlement Defendants, and  
25 objecting parties the stipulated judgment both as a preliminary injunction and as a final judgment  
26 if the stipulated judgment meets the criteria in subdivision (a) of section 850 of the Code of Civil  
27 Procedure.

28



1 limitation on, or reduction in, the diversion or extraction of water in the Basin; (3) an allocation  
2 among the parties establishing amounts of extraction allowed during the pendency of the  
3 comprehensive adjudication from the Basin; and/or (4) procedures for voluntary transfers within  
4 the Basin.

5 48. The Basin is in a condition of long-term overdraft.

6 49. Pursuant to the terms of the Settlement Agreement, the Settling Parties intend to  
7 request a preliminary injunction consistent with Code of Civil Procedure section 847 to provide  
8 for management of the Basin consistent with the terms of the proposed Stipulated Judgment, on  
9 an interlocutory basis, during the pendency of this Action. The request will seek among other  
10 things the appointment of an interim Watermaster and a process to fund the interim Watermaster  
11 budget.

12 50. Accordingly, BWD and the Settlement Defendants seek the issuance of a  
13 preliminary injunction pursuant to Code of Civil Procedure section 847, including, but not limited  
14 to, the management of the Basin on an interlocutory basis; allocations among the parties  
15 establishing amounts of extraction allowed; and the appointment of an interim Watermaster  
16 during the pendency of the Comprehensive Adjudication.

17 PRAYER FOR RELIEF

18 WHEREFORE, BWD prays for the following relief:

19 1. For a judgment in the form of the proposed Stipulated Judgment, or in the event  
20 the Stipulated Judgment cannot be entered pursuant to the Settlement Agreement, an alternative  
21 judgment consistent with the material terms of the Stipulated Judgment to comprehensively  
22 determine and adjudicate all groundwater rights in the Basin and provide a physical solution for  
23 the perpetual and continuous management of the Basin pursuant to Code of Civil Procedure  
24 section 850;

25 2. For a preliminary injunction to provide for the management of the Basin, on an  
26 interlocutory basis, during the pendency of this Action through the entry of the judgment and any  
27 appeal thereof, consistent with the terms of the proposed Stipulated Judgment, including without  
28 limitation for the appointment of an interim Watermaster;

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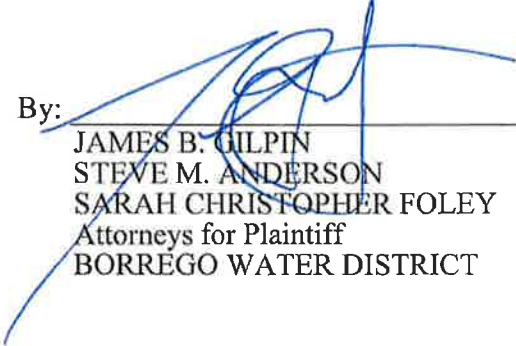
3. For entry of judgment in the form of the proposed Stipulated Judgment, or an alternative judgment consistent with the material terms of the Stipulated Judgment, against all defendants who fail to appear in this action that they are bound by the judgment and physical solution, and their water rights and storage rights in the Basin, if any, are limited to the terms of the judgment;


4. For judgment in the form of the proposed Stipulated Judgment, or an alternative judgment consistent with the material terms of the Stipulated 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 judgment; and

5. For such other and further relief as the Court deems just and proper.

Dated: January 30, 2020

BEST BEST & KRIEGER LLP

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

Order			Case				Status
Number	Submitted	Type	Number	Name	Court	Client Billing	Latest Status / Docs
14361283	1/30/2020 2:33 PM PT	eFiling court transaction: 2762637		Borrego Water District v. All Person Who Claim a Right to Extract Groundwater in the Borrego etc.	San Diego County, Superior Court of California	31000.00006 JBG	 <b>In Progress</b> under court clerk review