

**Borrego Water District Board of Directors**  
**SPECIAL MEETING AGENDA**  
**October 18, 2011, 9:00 AM**  
**806 Palm Canyon Drive**  
**Borrego Springs, CA 92004**

**I. OPENING PROCEDURES**

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Agenda
- E. Comments from Directors and Requests for Future Agenda Items
- F. Comments from the Public and Requests for Future Agenda Items (comments will be limited to 3 minutes)

**II. CURRENT BUSINESS MATTERS**

- A. Discussion of Christmas Circle consideration requests
- B. Discussion of District saving measures and selling of District assets (page 2)
- C. Discussion of Proposition 218 Governance (page 3-6)
- D. Discussion of FY 2011 audit progress
- E. Discussion and possible action regarding San Diego County Groundwater Mitigation Ordinance and MOA with the BWD (page 7-21)
- F. Discussion regarding ABD-IRWM grant proposal budget development and 25% share
- G. Discussion of availability charges collection
- H. Discussion of power cost pass through charges
- I. Discussion and possible approval of Cal Pers Second Tier Plan (page 22)
- J. Discussion of condensing minutes
- K. Consideration of moving the November and December Regular Board meeting dates.

**III. CLOSED SESSION**

- A. Conference with Real Property Negotiators pursuant to Gov't Code section 54956.8
  - Property: 199-080-21
  - Agency negotiators: Lee Estep, Beth Hart, and Jerry Rolwing
  - Negotiating party: Jack Cameron
  - Under negotiation: price and terms

**IV. CLOSING PROCEDURE**

**Adjournment** The next Regular Meeting of the Board of Directors is scheduled for October 26, 2011 at the Borrego Water District.

Borrego Water District  
October 2011  
Financial Decisions to Increase Cash Flow

The items listed below highlight the most significant decisions to increase short term cash flow and approximate the annual savings.

Dec 2010: – \$62,000 – Eliminated health care for Board members.  
\$261,000 – Did not replace salary and benefit package for GM,

Jan 2011 - \$15,000. Attorney no longer attending Board meetings.  
Cost average \$2500 per meeting, 2 meetings per month.

Jan – Mar. \$30,000 Est. Negotiated settlement to pending law suit  
saving liability insurance increase. Litigation costs not included.  
\$75,000 – renegotiated contract term pushing cash outlays to 2012.  
\$450,000 - Avoided cash expenses associated with the Bureau of Reclamation  
importation study by securing approval to accept in kind expenses.  
\$18,000 Est. - Minimized consulting and legal expenses by utilizing  
the skills of staff and Board members.  
Completed the necessary steps to collect federal grant money. (STAG Importation  
Study Grant)

April: \$84,000 Est. - Hired new District General Counsel. No charge for travel. Cost average  
per meeting \$650 instead of \$2500. Average monthly bill \$4000 versus \$11,400.  
(2010 average for previous District Counsel)

May: \$450,000 - Reduced 2011 O&M budget to bare minimum, eliminated all unnecessary  
expenditures, reduced publications, travel, memberships, inventory. No raises or  
colas for employees. (\$700,000 total - when old GM salary added)  
\$300,000+ - Reduced annual capital expenditures for 5 years by delaying nearly  
\$600,000 in necessary infrastructure repairs and replacements to FY 2016-17.  
\$12,000 Est. - Eliminated employees' use of vehicles except when on call.  
Amount saved in maintenance costs and wear and tear not included.  
\$1,500,000 – Elected not to exercise option to purchase Cocopah Nursery land.

June: \$71,000 - Did not replace a field employee who resigned.

July: Collected \$195,590 in Federal Grant monies (STAG Importation Study).  
\$68,000 remaining to be reimbursed to District.

Sept: -\$17,800 - Reorganized field staff duties.

Oct: \$50,000+ - Renegotiated Club Circle lease eliminating annual loss.  
\$21,500 - Reduced office staff hours.  
Closed Office from 4 to 3. Additional savings not calculated.  
Filled Operations Manager position at no additional compensation costs.

Currently: Working to secure a \$500,000+ IRWM grant and a multi million dollar  
implementation grant from the State of CA to relieve the rate payers of the cost of addressing  
flood, water and environmental issues in the Basin.

As a result of the action of the staff and Board, a complete exhaustion of cash forecast by  
District Financial advisers to occur in early Fall 2011 has been avoided. However, the  
financial model developed for the District found we could not save enough money to restore  
the District to financial health and creditworthiness, but would require a significant increase in  
revenues to return to financial stability. The loss of revenues from Montesoro coupled with a  
delay in payment for delinquent property taxes has put additional pressure on the District's  
ability to increase cash flow. The Board of Directors is continuing to explore all possible  
savings that do not jeopardize its obligation or ability to provide safe and secure water and  
sewer services to its customers, both now and in the future.

PROPOSITION 218: GOVERNANCE FOR DISTRICT  
Overview of Regulatory Authority  
Borrego Water District, October 2011

Proposition 218 was a voter initiative, passed in 1996 and entitled the “Right to Vote on Taxes Act.” It is the 3<sup>rd</sup> publicly sponsored initiative voters passed to contain and restrict the ability of government and local agencies to raise taxes, assessments and service fees without public input and right of protest. The first initiative was Proposition 13, passed in 1978. The second was Proposition 62 passed in 1986. Each of these left loopholes that Proposition 218 was meant to close. Initially, Prop 218 did not apply to water utilities, but that changed in 2006 when the CA Supreme Court determined that Prop 218 should apply to water utilities. (See *Bighorn-Desert Water Agency v. Verjil* (2006) 39 Cal. 4<sup>th</sup>205, 212.)

The Court found: “A fee for ongoing water service through an existing connection is imposed ‘as an incident of property ownership’ because it requires nothing other than normal ownership and use of property. But a fee for making a new connection to the system is not imposed ‘as an incident of property ownership’ because it results from the owner’s voluntary decision to apply for the connection.” *Richmond Community Services District v. Shasta Comm. Serv. Dist.* (2004)32 Cal.4th 409, 427.

The general terms of Proposition 218 requires that all taxes and assessments associated with and/or of benefit to real property must be voted on before they can be imposed. Fees must be noticed with an opportunity for public protest. Each of these legal requirements are specifically and separately defined for a tax, an assessment or a fee.

Basically, the Proposition requires:

- A majority voter approval for all local general taxes.
- A two-thirds voter approval for all local special taxes.
- Voter approval of existing local taxes enacted after January 1, 1995.
- Majority property owner approval of benefit assessments.
- Prohibit property-related fees from exceeding costs of service provided.
- Requires either majority voter or two-thirds approval of voters for imposition of fees.
- Provides for a users appeal of local taxes, assessments, or fees.

The District is restricted so that:

- A fee or charge revenue cannot exceed the total amount necessary to fund the specified project or service.
- Individual fees or charges cannot exceed the proportional cost required to provide service to the specified property.
- Revenues from the fee or charge cannot be used for any purpose other than that for which the fee or charge was imposed.
- Fee or charge revenue cannot be used for fire, police, ambulance, library service, or any other service generally available to the public.

- No fee or charge can be imposed for a service unless that service is actually used by, or immediately available to, the property owner. Fees based on potential or future services are prohibited. Standby charges must be classified as assessments and imposed pursuant to the measure's assessment provisions.

Generally speaking, a fee or charge is a monetary exaction to recover a public agency's cost of providing a particular service to the public or for mitigating the impacts of the fee payer's activities on the community. Proposition 218 creates a special subset of fees and charges for property-related services. It does so by defining the term fee or charge to mean a "levy . . . imposed on a parcel or upon a person as an incident of property ownership including a user fee or charge for a property-related service." [Cal. Const., art. XIID, § 2(e)]. This definition also provides that fees and charges are distinct from taxes or assessments. Proposition 218 prohibits a local agency from imposing taxes, assessments, fees or charges on parcels or on persons as an incident of property ownership except as provided in articles XIIC or XIID. Cal. Const., art. XIIC, § 3. It then creates certain substantive and procedural requirements relating to property-related fees and charges( Cal. Const., art. XIID, § 6).

Because of these provisions and their legal interpretation, the District is unable to provide different rates and fees among the same class of users. Instead, it must charge each class of user the same proportional share of its costs.

Proposition 218 specifically excludes two kinds of fees from its provisions:

- Developer fees ("Nothing in this article or Article XIIC shall be construed to . . . [a]ffect existing laws relating to the imposition of fees or charges as a condition of property development"), Cal. Const., art. XIID, § 1(b); and
- Fees for the provision of electrical and gas service are excluded from the category of "charges or fees imposed as an incident of property ownership") Cal. Const., art. XIID, § 3(b). (This is why SDGE may offer lower rates to low income users, but the District can not.)

In addition, fees that do not bear any relationship to property ownership, such as facility user fees (for example, park admission, boat launching and ambulance transport fees), are not subject to Proposition 218.

#### PARK FEES AND ASSESSMENTS:

If the District were to pursue Park powers to place an assessment on all District properties to pay for maintenance or construction of local parks, Proposition 218 would require the following:

- Requires local governments to identify those parcels that would receive a special benefit from the proposed project or service. A parcels' proportionate special benefit must be determined in relation to the total cost of the project. Only "special" benefits are assessable, so if a project also provides a general

benefit to the public, the agency must separate these costs and only assess landowners for the special benefit portion. Consequently, the remaining portion of the project's costs must be funded through general revenues, such as taxes.

- Requires local governments to have a detailed report prepared by a registered professional engineer. Under pre-Prop. 218 law, local agencies were typically required to prepare an engineer's report detailing the proposed project's boundaries, improvements, or services, plus the per-parcel assessment. Prop. 218 requires a more detailed engineer's report and an explicit description of what benefits are specially afforded individual property owners, rather than simply community-wide. As such, local governments may have to examine relative benefits on a parcel-by-parcel or block-by-block basis.
- Requires local governments to send a detailed notice to each parcel owner regarding a proposed assessment. Under law prior to enactment of Prop. 218, local agencies were required to mail notice to property owners subject to an assessment, unless the levy is agency-wide or for operation and maintenance purposes and affects 50,000 parcels or more. Under Prop. 218, an assessment mailer must be sent to all parcel owners and must include: the total assessment on all property owners; the reason for the assessment; the assessment's duration; the property owner's assessment; the basis for calculating the assessment; the date, time and location of a public hearing on the proposal; and a complete summary of the balloting procedures. It should be noted that public property parcels, such as schools, cannot be exempted from the measure's requirements, as they often are currently.
- Requires the public agency imposing the assessment to conduct a public hearing not less than 45 days after mailing a detailed notice to affected parcel owners. Prop. 218 requires all assessment proposals to include a noticed public hearing where the local government agency is required to consider all protests and tabulate ballots. Only property owners and any renters responsible for paying assessments are eligible to vote. Prior to Prop. 218, local agencies calculated "majority protest" in a variety of ways, including by parcel size and total assessment amount. On the contrary, Prop. 218 requires all ballots cast in assessment elections be weighted based on the property owner's proportional assessment obligation. For example, under Prop. 218, if property owner A would be required to pay twice as much assessment as property owner B, property owner A's vote would be worth twice as much as property owner B. The agency is precluded from imposing an assessment if a majority of the ballots SUBMITTED oppose the assessment.
- Includes several exemptions. Prop. 218 includes several exemptions to the above assessment requirements, including:
  - Any assessment imposed to finance the capital or maintenance costs of sidewalks, streets, sewers, water, flood control, drainage systems, or vector control. However, subsequent increases in these assessments must comply with the measure.
  - Any assessment which previously received majority voter approval or was imposed pursuant to a petition signed by all the affected property owners at the time of its imposition. However, subsequent increases must comply with the measure.
  - Any assessment where the proceeds are used to pay bonded debt for which failure to pay would violate the state or federal constitution.

There are 4 exception to the above rule on assessments, but they would not apply to a park assessment. They include four “exceptions” delineated in section 5 as follows:

- Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Cal. Const., art. XIID, § 5(a).
- Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Cal. Const., art. XIID, § 5(b).
- Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States of America. Cal. Const., art. XIID, § 5(c).
- Any assessment which previously received a majority vote approval from the voters voting in an election on the issue of the assessment. Cal. Const., art. XIID, § 5(d).

The cost of providing all the above is borne by the Agency and not the public. Such funds can not be diverted from service fees and instead, must be paid from “general” funds. If costs are paid out of service fees, Prop 218 establishes specific rules concerning how monies are moved within the Agency and establishes loan obligation with repayment provisions.

Source: The League of CA Cities, 2007 Edition, Proposition 218

## SAN DIEGO COUNTY GROUNDWATER ORDINANCE

ORDINANCE NO. 7994 (N.S.)  
ORDINANCE NO. 9644 (N.S.)  
ORDINANCE NO. 9826 (N.S.)

SAN DIEGO COUNTY CODE TITLE 6, DIVISION 7

CHAPTER 7 GROUNDWATER

### **Sec. 67.701 Short Title.**

This chapter shall be known as the San Diego County Groundwater Ordinance.

### **Sec. 67.702 Purpose and Intent.**

San Diego County overlies a complex groundwater resource that varies greatly throughout the entire County. This resource provides the only source of water for approximately 35,000 residents. Development has occurred and will continue to occur within this area, impacting the safe utilization of this valuable, finite and yet renewable resource. The purpose of this chapter is to establish regulations for the protection, preservation, and maintenance of this resource. It is not the purpose of this ordinance to limit or restrict agricultural activities, but to ensure that development will not occur in groundwater-dependent areas of the County unless adequate groundwater supplies are available to serve both the existing uses within the affected groundwater basin and the proposed uses. The economic, social, and environmental benefits of maintaining viable agriculture in San Diego County are expressly recognized in the adoption of this ordinance.

### **Sec. 67.703 Definitions.**

The following words shall have the meaning provided in this section. These definitions are to be broadly interpreted and construed to promote maximum conservation and prudent management of the groundwater resources within San Diego County.

Director: The Director of Planning and Land Use.

Groundwater Investigation: A study ~~designed to that~~ evaluates the geologic and hydrologic conditions, ~~and is~~ prepared in accordance with standards approved by the Director. The study ~~must~~ shall be prepared by a California State Registered Geologist or

Registered Civil Engineer and be approved by the Director. The Director may require the study to demonstrate the groundwater adequacy of the groundwater basin to serve both the project and the entire basin if developed to the maximum density and intensity permitted by the General Plan. For residential uses, the study shall assume an annual consumptive use requirement of 0.5 acre-feet (163,000 gallons) of water per dwelling unit. ("Consumptive use" is the amount of groundwater lost from the groundwater resource due to human use, including evaporation and transpiration (plant use) losses associated with human use.)

**Residual Drawdown:** The difference between the initial (static) water level before a well test is conducted and the water level after recovery. Projected residual drawdown indicates an aquifer of limited extent and the long-term well yield may be lower than what is indicated in a well test.

**Specific Capacity:** An expression of the productivity of a well, obtained by dividing the rate of discharge of water (in gallons per minute) from the well by the drawdown (in feet) of the water level in the well.

**Water Intensive Use:** Any land use that requires a permit listed in Section 67.711 and is not exempt from this ordinance, and that will require more water than 20 acre-feet per year or more than 20,000 gallons per day.

**Water Service Agency:** Any city, mutual or municipal water district, or any other private or public agency which provides water at retail from either: (1) groundwater resources, to two or more users; or (2) imported water resources. Such water service agency must be in existence prior to the date of submittal of any project relying on service from that agency.

**Well Test:** The production procedure, reviewed and approved by the Director, by which water is produced from a water well and resulting water levels are monitored. If the results of the testing are inconclusive or improperly conducted, additional testing will be required. (All wells must have a valid San Diego County Health Department well permit prior to construction.)

1. Residential Well Test: A test of a well on property with zoning which permits residential use, or which is for a residential project, shall be conducted by or under the direct supervision of a California State Professional (or Registered) Geologist, who shall conduct all analysis. The Residential Well Test shall meet or exceed all of the following minimum requirements unless the Director has first approved an alternate procedure:
  - a. Well production during the Residential Well Test must be maintained at a rate of no less than three gallons per minute.

- b. The Residential Well Test must be conducted over a period of at least 24 hours, unless after eight hours of pumping, the measured specific capacity is equal to or greater than 0.5 gallons per minute per foot of drawdown, at which time pumping can be terminated. In addition, all Residential Well Tests must produce at least two full well bore volumes of water (a bore volume is that quantity of water which is stored within the saturated portion of the drilled annulus of the well).
  - c. The analysis of the Residential Well Test must indicate that no residual drawdown is projected (taking into account minor inaccuracies inherent in collecting and analyzing well test data).
  - d. The analysis of the Residential Well Test must also indicate that the amount of drawdown predicted to occur in the well after five years of continual pumping at the rate of projected water demand, will not interfere with the continued production of sufficient water to meet the needs of the anticipated residential use(s).
2. Nonresidential Well Test: A test of a well for a nonresidential project (such as a golf course) shall be in accordance with procedures approved by the Director and may be more extensive than those applicable to a Residential Well Test.

**Sec. 67.710 Director to Enforce.**

The Director shall have the authority to enforce all the provisions of this Chapter. The Director may designate the County Groundwater Geologist as the employee responsible for implementing this Chapter, to:

1. Review and perform groundwater studies.
2. Conduct research on the groundwater resources of the County.
3. Review and make recommendations on all discretionary projects which fall under this ordinance.
4. Monitor and maintain files on the status of the resource.
5. Assist consultants, community groups, water service agencies and residents of the County in assessing groundwater concerns.
6. Identify groundwater impacted basins.
7. Prepare recommended revisions to the Groundwater Limitations Map.

**Sec. 67.711 Application.**

Prior to approval of any of the following discretionary land development applications for a project which proposes the use of groundwater (hereinafter referred to as "Projects"), the applicant shall comply with the provisions of Article 3 below:

General Plan and Specific Plan Adoptions and Amendments

Tentative Parcel Maps

Tentative Maps

Revised Tentative Parcel Maps and Revised Tentative Maps (Review shall exclude areas unaffected by the revisions proposed by the Revised Map)

~~Expired Tentative Parcel Maps and Expired Tentative Maps~~

Zoning Reclassifications Amending Use Regulations Applicable to Particular Property

Major Use Permits

Major Use Permit Modifications (Review shall exclude areas unaffected by the proposed modifications)

Certificates of Compliance filed pursuant to San Diego County Code Section 81.616.1 or 81.616.2 (Excluding Condominium Conversions)

Adjustment Plats filed pursuant to San Diego County Code Section 81.901 et seq., on property zoned to permit residential use, if the Director determines that the Adjustment Plat will create a lot which would potentially worsen existing or future groundwater conditions at the maximum density and intensity permitted by the General Plan and Zoning, taking into consideration long-term groundwater sustainability, groundwater overdraft, low well yield, and well interference. If the Director makes this determination, the Adjustment Plat shall comply with Section 67.722 but not Sections 67.720 or 67.721.

**Sec. 67.720 Borrego Valley.**

~~For any project located within~~ The following provisions apply to Projects in the Borrego Valley Exemption Area. This area is as shown on the map entitled "Groundwater

Limitations Map", approved by the Board of Supervisors on May 5, 2004 (Item 15), on file with the Clerk of the Board of Supervisors as Document No. 0770050, any application listed in Section 67.711 which either (1) includes a water-intensive use, or (2) consists of a total project area of 100 acres or more, and any application for a General Plan Amendment, shall be accompanied by a Groundwater Investigation. The application shall not be approved unless the approving authority finds that based upon the Groundwater Investigation, groundwater resources are adequate to meet the groundwater demands of the project.

A. A Project listed in Section 67.711 which will use at least one acre-foot (325,851 gallons) of water per year shall include one or more groundwater use reduction measures listed in subsection B below. The groundwater use reduction measures shall fully offset the amount of groundwater that the proposed project will use and shall result in "no net increase" in the amount of groundwater extracted from the Borrego Valley Exemption Area. The groundwater use reduction measures shall be implemented within the Borrego Valley Exemption Area as shown on the "Groundwater Limitations Map."

B. One or more of the following groundwater use reduction measures may be used:

1. Grant an easement to the County of San Diego on off-site land that is being actively irrigated in accordance with the following provisions:

a) The easement shall permanently and completely prohibit the use, extraction, storage, distribution or diversion of groundwater on the property subject to the easement, except for the use of a maximum of one acre-foot of groundwater per year for a single-family residence.

b) The amount and evidence of historic groundwater use and the terms and conditions of the easement shall be subject to the approval of the Director.

c) The use of the water on the land subject to the easement shall have started by January 1, 2008 and shall have continued to the date the proposed easement is submitted to the Department of Planning and Land Use.

d) The quantity of water available for offset shall be based on the total groundwater consumptive use for each vegetation type on the land subject to the easement as determined by the values in the following table:

<u>Vegetation Type</u>	<u>Groundwater Consumptive Use Per Acre (acre-feet/acre/year)</u>
<u>Citrus (all types)</u>	<u>4.6</u> <sub>[34]</sub>
<u>Nursery plants</u>	<u>4.2</u> <sub>[35]</sub>
<u>Palms (all types)</u>	<u>3.5</u> <sub>[36]</sub>
<u>Tamarisk</u>	<u>1.6</u> <sub>[37]</sub>
<u>Turf (warm season)</u>	<u>4.7</u> <sub>[38]</sub>
<u>Turf (winter cool/ summer warm)</u>	<u>5.2</u> <sub>[39]</sub>
<u>Potatoes</u>	<u>0.75</u> <sub>[310]</sub>

To determine the groundwater consumptive use for each vegetation type within the easement area, the acreage of irrigated land for a particular vegetation type is multiplied by the "Groundwater Consumptive Use Per Acre" as listed in the table above. The "Groundwater Consumptive Use Per Acre" value for any vegetation types not listed in table above shall be determined by the Director.

- e) Submit the easement to the Department of Planning and Land Use for review, approval and recordation.
2. Water credits issued by the Borrego Water District that comply with the Memorandum of Agreement between the Borrego Water District and the County of San Diego regarding Water Credits dated XX/XX/XX, and any amendments thereto, on file with the Clerk of the Board of Supervisors.
3. Provide evidence to the satisfaction of the Director that all (or a portion of) the on-site water use occurring prior to the date of permit application will be permanently eliminated as a result of the Project.
4. Any other legally enforceable mechanism that achieves permanent water savings, subject to approval by the Director.

**Sec. 67.721 Groundwater Impacted Basins.**

- A. Identification and Mapping. Areas within the County which are characterized by one or more of the following groundwater problems shall be known as Groundwater Impacted Basins and shall be identified and mapped:

1. Low yielding wells having an overall average yield of less than 3 gallons per minute.
2. Basins with previously approved developments at a parcel size smaller than those stated in the table in paragraph A of Section 67.722 and in excess of available water resources.
3. Declining groundwater levels and a measurable groundwater overdraft.

The Groundwater Impacted Basins shall be designated on a map known as the "Groundwater Limitations Map" which shall be adopted by the Board of Supervisors and kept on file with the Clerk of the Board of Supervisors. Prior to adding any area to said map or making any deletions from or revisions to said map, the Board of Supervisors shall hold a public hearing. Notice of such hearing shall be mailed at least 30 days in advance, to the owner (as shown on the latest equalized assessment roll) of any property proposed to be added to or deleted from said map. The Director of Planning and Land Use shall annually review said map and may recommend such revisions as the Director finds appropriate.

- B. Regulations. Any application listed in Section 67.711 for a project within a Groundwater Impacted Basin shall be accompanied by a Groundwater Investigation. In addition, a Well Test shall be performed for each lot proposed to be created by or included within the project. The application shall not be approved unless the approving authority finds that based upon the Groundwater Investigation, groundwater resources are adequate to meet the groundwater demands both of the project and the groundwater basin if the basin were developed to the maximum density and intensity permitted by the General Plan.

**67.722 All Other Projects.**

Any application listed at Section 67.711 for a project not subject to Section 67.720 or Section 67.721, which proposes the use of groundwater not provided by a Water Service Agency, for all or any portion of the project, shall comply with the following regulations:

- A. Residential Density Controls.

Tentative Maps, Tentative Parcel Maps, and Certificates of Compliance proposing parcels for single-family dwellings must comply with the minimum parcel sizes set forth in the following table; Adjustment Plats on property zoned to permit residential use shall also comply with these minimum parcel sizes, except that an existing parcel smaller than the applicable minimum parcel size

need not be made to conform to the minimum, so long as it is not further reduced in size by the Adjustment Plat:

Mean Annual Precipitation* (inches)	Minimum Parcel Size**(Gross Acres)
Less than 9	20
9 to 12	15
12 to 15	11
15 to 18	8
18 to 21	5
More than 21	4

\*Mean annual precipitation is to be determined from the County of San Diego map entitled "Groundwater Limitations Map", approved by the Board of Supervisors on May 5, 2004 (Item 15), on file with the Clerk of the Board of Supervisors as Document No. 0770050.

\*\*Compliance with the minimum parcel size does not guarantee project approval; site-specific characteristics may indicate that either larger parcel sizes are required or that the project should not be approved in individual cases.

- B. Groundwater Investigations. Any application listed in Section 67.711 and not subject to Sections ~~67.720~~, 67.721 or Paragraph A above, shall be accompanied by a Groundwater Investigation. The application shall not be approved unless the approving authority finds, based upon the Groundwater Investigation or other available information, either: (1) for a water intensive use, that groundwater resources are adequate to meet the groundwater demands both of the project and the groundwater basin if the basin were developed to the maximum density and intensity permitted by the General Plan; or (2) for all other projects, that groundwater resources are adequate to meet the groundwater demands of the project.
- C. Well Tests. For any application for a Tentative Map, Specific Plan or Specific Plan Amendment, Tentative Parcel Map, Adjustment Plat or a Certificate of Compliance, well tests shall be performed for the number of lots shown in the following table. Tests shall be on lots which appear to have the least access to a viable groundwater supply as determined in advance of testing by the Director, who shall also specify nearby wells to be monitored while the testing is being conducted. If any well does not pass the requirements for Well Tests stated in Section 67.703 above, the Director may require additional well tests beyond what is required in the following table:

Number of Proposed Lots*	Number of Required Well Tests
1 through 10	1
11 through 20	2
21 through 30	3
31 through 40	4
Greater than 40	5

\* Excluding remainder parcels and "not a part" areas

**Sec. 67.750 Exemptions.**

- (a) A proposed subdivision which pursuant to the terms of Government Code Section 66424 or 66426 is exempt from the requirement to file a Tentative Map or Tentative Parcel Map is not subject to this Ordinance unless it also involves an application for a General Plan or Specific Plan adoption or amendment, a Zoning Reclassification, or a Major Use Permit or modification thereof.
- (b) The following Major Use Permits or Major Use Permit modifications are exempt from this ordinance:
  - (1) Those involving the construction of agricultural and ranch support structures used in the production, storage, or processing of food, fiber, and flowers, including but not limited to roadside stands, barns, sheds, packing houses, and greenhouses, **except** that this exception does not apply to feed lots.
  - (2) Those involving new or expanded agricultural land uses, including but not limited to changes in commodities produced on the property, operations performed upon such commodities, and development of additional irrigated acreage on the property unless accompanied by subdivision.

This agricultural exemption does not supersede or limit the application of any law or regulation otherwise applicable to the above-listed categories of agricultural support activities including the California Environmental Quality Act. For purposes of this exemption, "agricultural and ranch support structures" do not include the commercial exportation of groundwater for purposes of resale outside the basin.

- (c) Director may grant an exemption from the requirement for a Groundwater Investigation imposed by Section 67.720, 67.721 or 67.722.B, the requirement for Well Tests imposed by Section 67.721 or 67.722.C, or the requirement for minimum parcel sizes imposed by Section 67.722.A, upon a finding that existing

data clearly demonstrate that the finding required by Section 67.722.B. can be made without additional study. Such data may include a recent history (minimum of five years) of groundwater withdrawals or streamflow data and other geomorphic evidence which indicates that replenishment of groundwater resources is rapid and reliable, and is controlled primarily by infiltration of streamflow rather than on-site recharge.

DRAFT

MEMORANDUM OF AGREEMENT  
BETWEEN THE BORREGO WATER DISTRICT  
AND THE COUNTY OF SAN DIEGO  
REGARDING WATER CREDITS

This Memorandum of Agreement (MOA) between the Borrego Water District (BWD), a water district formed pursuant to California law, and the County of San Diego (County), a political subdivision of the State of California, is entered into on

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Whereas, the Borrego Aquifer is in a state of overdraft due to the extensive use of groundwater in the Borrego Valley.

Whereas, due to the overdraft condition, BWD plans to implement a program to encourage the voluntary and immediate cessation and/or reduction of measurable water uses to reduce the demand on the groundwater aquifer that is under the Borrego Valley.

Whereas, a key element in BWD's program is the issuance of water credits for the cessation and reduction in the use of groundwater in accordance with BWD's program.

Whereas, due to the overdraft condition, County wants to ensure that proposed uses in the Borrego Valley offset their demand for groundwater by a ratio of least a one-to-one, and water credits issued by BWD that also meet County's requirements are one method that project applicants can use to provide this offset.

Whereas, BWD and County wish to enter into this MOA to set forth the terms by which the County will recognize water credits issued by BWD.

NOW, THEREFORE, the parties agree as follows:

1. The County will recognize water credits issued by BWD if the water credits meet all of the criteria set forth in this MOA.
2. The water credits shall have been issued in exchange for an easement granted to BWD. The easement shall include the following provisions:
  - a. The easement shall permanently and completely eliminate the extraction, use, storage, distribution or diversion of groundwater on the land subject to the easement, except for one-acre foot of groundwater per year to serve a single-family dwelling<sup>[LB1]</sup>.
  - b. The easement shall designate County as a third-party beneficiary with the right, but not the obligation to enforce the easement. The easement shall give

County the same right of access for purposes of monitoring compliance with the easement and the same options for enforcing the easement as the easement gives to BWD.

3. Before accepting the easement, BWD shall verify that all extraction, use, storage, distribution or diversion of groundwater on the property subject to the easement has ceased, that all crops or turf have been removed and that all pumps and wells on the property, if any, have been disengaged or rendered inoperable.

4. Each water credit shall be equal to one-acre foot of water per year<sup>[LB2]</sup>.

5. The number of water credits issued shall be based on the water use as determined on the chart attached to this MOA as Exhibit A. The water use shall be calculated based on the vegetation types, vegetation area being actively irrigated and corresponding annual groundwater consumptive use as specified in Exhibit A. BWD shall obtain the prior written approval of County for any vegetation not listed in Exhibit A and for the amount of water use calculated for that vegetation.

6. The irrigation of the land for which the water credits are issued shall have begun before January 1, 2008<sup>[j3]</sup> and shall have continued until the date the application was submitted to BWD for the water credits.<sup>[j4]</sup>

7. BWD shall include the following certification on each Water Credit Certificate that BWD issues for water credits granted in compliance with this MOA:

The Borrego Water District certifies that the water credits listed on this Water Credit Certificate comply with all of the requirements of the Memorandum of Agreement Between the Borrego Water District and the County of San Diego Regarding Water Credits dated \_\_\_\_\_.

\_\_\_\_\_  
Borrego Water District  
General Manager

\_\_\_\_\_  
Date

8. BWD may issue water credits that do not comply with this MOA, but County will recognize only those water credits that comply with the requirements of this MOA.

9. County reserves the right to verify that water credits issued by BWD comply with this MOA. BWD shall provide information and answer questions related to water credits presented to County for offsets or related to BWD's groundwater use reduction program as requested by County. If, in spite of the certification described in paragraph 7 above, County determines that the water credits do not comply with this MOA, County will not recognize the water credits for offsets.

10. Either party may terminate this MOA on 30 days [j5] prior written notice to the other party. Notice of termination shall be addressed as follows:

To County:  
Director of Planning and Land Use  
[Address]

To BWD:  
\_\_\_\_\_  
\_\_\_\_\_

11. This MOA may be amended or changed only by a written amendment signed by both parties.

12. This MOA is an enforceable agreement.

Now, therefore, the parties execute this MOA as of the date first written above.

COUNTY OF SAN DIEGO

BORREGO WATER DISTRICT

By: \_\_\_\_\_  
Clerk of the Board of  
Supervisors

By: \_\_\_\_\_  
[title]

Approved as to form and legality  
County Counsel

Approved as to form and legality

By: \_\_\_\_\_  
Senior Deputy

By: \_\_\_\_\_  
[title]



**County of San Diego Department of Planning and Land Use  
Assumptions Used for Calculation of Water Offset Credits**

The amount of water credit (in acre-feet/acre) to be granted for land with an actively irrigated use that will be permanently taken out of production is listed for the most common vegetation types in Borrego Valley:

Vegetation Type	Groundwater Offset Credit (acre-feet/acre/year)
Citrus (all types)	4.6 5.1
Nursery plants	4.2 4.7
Palms (all types)	3.5 3.9
Tamarisk	1.6 1.8
Turf (warm season)	4.7 5.4
Turf (winter cool/summer warm)	5.2 5.9

This was determined by the following equation:

$$\text{Annual Groundwater Consumptive Use (acre-feet/year)} = \frac{[\text{Reference Evapotranspiration (feet/year)} \times \text{Plant Factor} \times 1 \text{ acre}]}{\text{Irrigation Efficiency}}$$

Where:

**Annual Groundwater Consumptive Use** (acre-feet per year), defined as the amount of groundwater lost through evapotranspiration (evaporation from the soil and transpiration from the plant).

**Reference Evapotranspiration (ET<sub>o</sub>)** (feet per year), defined as the approximation of water loss from a field of 4 to-7-inch-tall cool season grass that is not water stressed. ET<sub>o</sub> values are published by the California Irrigation Management System (CIMIS). For the calculation, please use the most currently published average annual ET<sub>o</sub> from CIMIS Station 207 in Borrego Springs. As of May 18, 2011, Station 207 had an average annual ET<sub>o</sub> of 6.3 feet (source for ET<sub>o</sub>: <http://www.cimis.water.ca.gov>).

**Plant Factor** (or Crop Coefficient), defined as the fraction of water lost from the plant relative to ET<sub>o</sub>. The annual plant factor is listed for the most common vegetation types in Borrego Valley:

Vegetation Type	*Plant Factor
Citrus (all types)	0.65
Nursery plants	0.6
Palms (all types)	0.5
Tamarisk	0.2
Turf (warm season)	0.6
Turf (winter cool/summer warm)	0.66

\*Plant factor for other plant types shall be obtained from publications by the State of California or University of California  
Sources for Plant Factor: [http://www.water.ca.gov/pubs/planning/guide\\_to\\_estimating\\_irrigation\\_water\\_needs\\_of\\_landscape\\_plantings\\_in\\_ca/wucols.pdf](http://www.water.ca.gov/pubs/planning/guide_to_estimating_irrigation_water_needs_of_landscape_plantings_in_ca/wucols.pdf)  
<http://celosangeles.ucdavis.edu/newsletterfiles/Co-Hort11051.pdf>

**Irrigation Efficiency**, defined as a measure of the portion of total applied irrigation water beneficially used to satisfy the plants needs. Losses (non-beneficial use) include runoff, evaporation from wet soil surfaces, and irrigation return flow to the aquifer. The numbers below were adjusted to take into consideration the assumption that 10% of the total applied water is irrigation return flow back to the aquifer.

Irrigation Method	Irrigation Efficiency
Spray/Rotor (turf, tamarisk)	0.8
Drip (Citrus, nursery plants, palms)	0.9

Source for Irrigation Efficiency: Turf and Landscape Irrigation Best Management Practices, April 2005, Water Management Committee of the Irrigation Association

**Notes:**

For Reference Evapotranspiration (ET<sub>o</sub>), Station 207 (attached see **Reference Evapotranspiration – Borrego Valley CIMIS Station 207**) was used to best estimate the amount of reference evapotranspiration for Borrego Valley (approximately 75.39 inches or 6.3 feet per year). This value is higher than the regional CIMIS value for Region 18 in which Borrego Valley is located (approximately 71.61 inches or 6 feet per year).

For plant factor (or crop coefficient), data was taken from two attachments:

***CIMIS Guide to Estimating Crop Coefficients:***

Citrus – See page 6

Nursery Plants – considered on the high end of moderate water use (0.6)

Palms – considered a moderate water use (0.5) based on the following plants with a M category:

Mediterranean Fan Palm, Sago Palm, Madagascar Palm, Canary Island Date Palm, Date Palm, Pigmy Date Palm, Queen Palm, California Fan Palm, Mexican Fan Palm, Queen Palm

Tamarisk: considered a low water use (0.2)

***Kc for grass UCR:***

Warm Season Grass: The value is listed as 0.6

Warm Season with Cool Season Overseed: This was based on the assumption of cool season grass being active from November through March each year and warm season grass being active from April to October. On average, this equates to an annual crop coefficient of 0.66

Potato crop was based on information in the BWD IRWMP.

For irrigation efficiency, this was taken from the attached **IA BMP April 2005** (page 3-5). The values for rotor and drip were 0.7 and 0.8 respectively and were bumped up by 10% to 0.8 and 0.9 to take into account the loss of water back to the aquifer which would not be something to give credit for.



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July 28, 2011

Employer Number: 1756  
 Employer Name: BORREGO WATER DISTRICT  
 Rate Plan: MISCELLANEOUS PLAN

Re: New Second Tier Plan (Section 20475: Different Level of Benefits Provided for New Employees; Section 21353 2.0% @ 60 Full Formula)

Dear Requestor:

In the table below, we show your 2011-2012 employer contribution rates before and after opening a second tier.

Of the five rate components, the first three are specific to the pool to which the plan belongs and the last two are specific to your agency. However, the Phase out of Normal Cost Difference will be 0% beginning with rates established for 2011-2012, so it has no impact from that time on.

The Side Fund will continue to be paid off by the first tier plan since all the past service on which it is based belongs to those current members who will continue in the first tier. The scheduled dollar amounts payable will continue as before. However, because newly hired members will be covered by the second tier, the number of members and payroll in the first tier will (after several years) gradually decline. The Amortization of Side Fund rate component is the dollars needed to pay off the side fund divided by the payroll. So as long as the Side Fund remains, **the first tier rate will increase as its payroll decreases.** The first tier side fund is scheduled to be paid off after 9 years from June 30, 2011.

Therefore, in determining the employer contributions savings, Amortization of Side Fund should be excluded. For your agency, the ultimate annual employer savings equals the difference between the Normal Cost and Surcharges rates times the second tier payroll. For 2011-2012 the Normal Cost and Surcharges percentage savings is  $(10.257\% + 0.000\%) - (6.622\% + 0.000\%) = 3.635\%$ . **The employer annual dollar savings is about 3.6% of the second tier fiscal year payroll.**

The Risk Pool's Payment on Amortization Bases is a temporary adjustment to the pool's contribution to "get the pool back on schedule". This temporary adjustment varies in amount and duration from pool to pool.

As of June 30, 2009	Existing Plan	New Second Tier Plan
	3% @ 60	2.0% @ 60 for newly hired members
<b>2011-2012 Employer Contribution Rate:</b>		
Risk Pool's Net Employer Normal Cost	10.257%	6.622%
Risk Pool's Payment on Amortization Bases	3.896%	1.111%
Surcharges for Class 1 Benefits	0.000%	0.000%
Phase out of Normal Cost Difference	0.000%	0.000%
Amortization of Side Fund	4.381%	0.000%
<b>Total Employer Contribution Rate</b>	<b>18.534%</b>	<b>7.733%</b>
2011-2012 Employee Contribution Rate	8.000%	7.000%

The employee rate reduction of 1% would begin immediately after you hire your first employee and last indefinitely.