

EXHIBIT 6.2

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

(Space Above for Recorder's Use)

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
(WATER ALLOCATION RESULTING FROM CONVEYANCE OF PORTION OF BPA
PARCEL AND ASSIGNMENT OF BPA BETWEEN PARCELS)**

This DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS (WATER ALLOCATION RESULTING FROM CONVEYANCE OF PORTION OF BPA PARCEL AND ASSIGNMENT OF BPA BETWEEN PARCELS) ("**Restrictive Covenant**") is made this ___ day of _____, 20___, by [*Name of Declarant - Use Complete Name as Specified in Judgment*] ("**Declarant**").

RECITALS

WHEREAS, Declarant is the sole owner in fee simple of certain real property legally described on Exhibit "A" and depicted on Exhibit "B" attached hereto and incorporated herein by this reference (the "**Original Property**"), which consists of approximately ___ acres in the County of San Diego, State of California.

WHEREAS, Declarant is a party to that certain judgment comprehensively adjudicating all rights to extract water from, or store water within, the Borrego Springs Subbasin entered in Borrego Water District vs. All Persons Who Claim a Right to Extract Groundwater in the Borrego Valley Groundwater Subbasin No. 7.024-01 San Diego County Superior Court Case No. 37-2020-00005776 recorded as Document No. _____ in the Official Records of the Office of the County Recorder, County of San Diego ("**Official Records**") ("**Judgment**").

WHEREAS, pursuant to the Judgment, Declarant owns a Baseline Production Allocation, as defined in the Judgment, of ___ acre-feet ("**Declarant's Existing BPA**") for use on the Original Property.

WHEREAS, following recordation of this Restrictive Covenant, Declarant intends to convey a portion of the fee title to the Original Property to [*Name of Grantee - Use Complete Name as Specified in Judgment and/or on Deed*] ("**Grantee**"), which portion is the real property legally described on Exhibit "C" and depicted on Exhibit "D," attached hereto and incorporated by this reference ("**Grantee's Parcel**"), subject to the covenants, conditions and restrictions

described below and set forth in the deed to be recorded for conveyance of Grantee's Parcel to Grantee. Declarant intends to retain the remainder of the Original Property, which portion is the real property legally described on Exhibit "E" and depicted on Exhibit "F," attached hereto and incorporated by this reference ("**Declarant's Retained Parcel**"), subject to the covenants, conditions and restrictions described below.

WHEREAS, upon recordation of the deed conveying fee title to Grantee's Parcel to Grantee, Grantor intends that *[all] [none] [__ acre-feet]* of Declarant's Existing BPA shall benefit and be assigned to Grantee's Parcel ("**Grantee's BPA**") and *[all] [none] [__ acre-feet]* shall benefit and be assigned to Declarant's Retained Parcel ("**Declarant's Retained BPA**"). The division and assignment of Declarant's Existing BPA between Grantee's Parcel and Declarant's Retained Parcel is hereinafter referred to as the "**BPA Division.**" The BPA Division will become effective upon recording of this Restrictive Covenant on both Grantee's Parcel and Declarant's Retained Parcel and notice of the BPA Division to the Watermaster pursuant to Section 10 below.

WHEREAS, Declarant is recording this Restrictive Covenant against both Grantee's Parcel and Declarant's Retained Parcel to restrict pumping of groundwater for use on those properties consistent with the terms of the Judgment and the BPA Division as set forth in this Restrictive Covenant.

RESTRICTIONS

NOW THEREFORE, in consideration of the above recitals which are incorporated herein by this reference, Declarant hereby covenants, agrees and declares as follows:

Covenants, Conditions, and Restrictions Applicable to Grantee's Parcel

1. Grantee's Parcel shall be held, transferred, conveyed, leased, occupied, used or otherwise disposed subject to the following covenants, conditions and restrictions, which shall run with Grantee's Parcel or any portions into which it may be divided, and shall be binding upon and burden Grantee's Parcel, successor owners, administrators, assigns, lessees and other occupiers and users of Grantee's Parcel, or any portion thereof, and all parties having or acquiring any right, title or interest in Grantee's Parcel, or any portion thereof, and their successors and assigns, and shall inure to the benefit of the Declarant, Declarant's successors and assigns, and the Declarant's Retained Parcel. The following covenants, conditions and restrictions are imposed upon Grantee's Parcel and every part thereof as a servitude in favor of Declarant and Declarant's Retained Parcel and every portion thereof as the dominant tenement or tenements for purposes of Sections 1 through 4 herein. Grantee, and all parties having or acquiring any right, title or interest in Grantee's Parcel, or any portion thereof, and their successors and assigns, by accepting title to Grantee's Parcel shall be deemed to acknowledge and agree to all of the covenants, conditions and restrictions as set forth in this Restrictive Covenant.

2. Upon recordation of the deed conveying fee title to Grantee's Parcel to Grantee and notice to the Watermaster pursuant to the Judgment, "Pumping" of "Groundwater," as defined in the Judgment, from well(s) specified in Section 3 below will be limited to Grantee's BPA, except for Pumping as a "De Minimis Pumper," as defined in the Judgment. Except for Pumping of Groundwater as a De Minimis Pumper, any Pumping of Groundwater from Grantee's Parcel in excess of Grantee's BPA is prohibited unless an allocation of Groundwater is subsequently acquired for the benefit of Grantee's Parcel by way of lease or permanent transfer of Groundwater allocation approved in accordance with the terms of the Judgment. Except as specifically allowed in this Section 2, or under a duly approved lease or permanent transfer of water allocation approved in accordance with the Judgment, the following uses are expressly prohibited on Grantee's Parcel:

- A. pumping, producing, extracting and/or using Groundwater located in or under Grantee's Parcel or any portion thereof in excess of Grantee's BPA, or
- B. installing, maintaining, using, repairing, relocating or replacing any production well(s) in or on Grantee's Parcel except for the purpose of Pumping as a De Minimis Pumper, Pumping Grantee's BPA or Pumping Groundwater allocation acquired for Grantee's Parcel by way of lease or permanent transfer in accordance with the terms of the Judgment.

3. The wells that will be used to Pump Grantee's BPA are identified as [ENTER STATE WELL NUMBERS], which wells may be replaced from time to time with notice to the Watermaster.

4. The covenants conditions, and restrictions set forth in Sections 1 through 3 herein are for the benefit of Declarant and Declarant's Retained Parcel. This Restrictive Covenant may be enforced only in accordance with Section VII.A(1) of the Judgment by Declarant, by any Party to the Judgment having or acquiring any right, title or interest in Declarant's Retained BPA or in Declarant's Retained Parcel, by the Watermaster appointed under the Judgment (the "**Watermaster**"), or by the Court maintaining continuing jurisdiction over the Judgment. Declarant may assign any of its rights and powers under this Restrictive Covenant to any Party to the Judgment having or acquiring any right, title or interest in Declarant's Retained BPA or in Declarant's Retained Parcel. Upon the recordation of such assignment in the Official Records, such assignee, to the extent of such assignment, shall have the same rights and powers as are given to Declarant herein.

[End of Covenants, Conditions, and Restrictions Applicable to Grantee's Parcel]

Covenants, Conditions, and Restrictions Applicable to Declarant's Retained Parcel

5. Declarant's Retained Parcel shall be held, transferred, conveyed, leased, occupied, used or otherwise disposed subject to the following covenants, conditions and restrictions, which shall run with Declarant's Retained Parcel or any portions into which it may be divided, and shall be binding upon and burden Declarant's Retained Parcel, successor owners, administrators, assigns, lessees and other occupiers and users of Declarant's Retained Parcel, or any portion thereof, and all parties having or acquiring any right, title or interest in Declarant's Retained Parcel, or any portion thereof, and their successors and assigns, and shall inure to the benefit of Grantee, Grantee's successors and assigns, and Grantee's Parcel. The following covenants, conditions and restrictions are imposed upon Declarant's Retained Parcel and every part thereof as a servitude in favor of Grantee and Grantee's Parcel and every portion thereof as the dominant tenement or tenements for purposes of Paragraphs 5 through 8 herein. Declarant, and all parties having or acquiring any right, title or interest in Declarant's Retained Parcel, or any portion thereof, and their successors and assigns, by accepting title to Declarant's Retained Parcel shall be deemed to acknowledge and agree to all of the covenants, conditions and restrictions as set forth in this Restrictive Covenant.

6. Upon recordation of the deed conveying fee title to Grantee's Parcel to Grantee and notice to the Watermaster pursuant to the Judgment, . "Pumping" of "Groundwater," as defined in the Judgment, from Declarant's Retained Parcel is limited to Declarant's Retained BPA, except for Pumping as a "De Minimis Pumper," as defined in the Judgment. Except for Pumping of Groundwater as a De Minimis Pumper, any Pumping of Groundwater from Declarant's Retained Parcel in excess of Declarant's Retained BPA is prohibited unless an allocation of Groundwater is subsequently acquired for the benefit of Declarant's Retained Parcel by way of lease or permanent transfer of Groundwater allocation approved in accordance with the terms of the Judgment. Except as specifically allowed in this Section 6, or under a duly approved lease or permanent transfer of water allocation approved in accordance with the Judgment, the following uses are expressly prohibited on Declarant's Retained Parcel:

- A. pumping, producing, extracting and/or using Groundwater located in or under Declarant's Retained Parcel or any portion thereof in excess of Declarant's Retained BPA, or
- B. installing, maintaining, using, repairing, relocating or replacing any production well(s) in or on Declarant's Retained Parcel except for the purpose of Pumping as a De Minimis Pumper, Pumping Declarant's Retained BPA, or Pumping Groundwater allocation acquired for Declarant's Retained Parcel by way of lease or permanent transfer in accordance with the terms of the Judgment.

7. The wells that will be used to Pump Declarant's Retained BPA are identified as [ENTER STATE WELL NUMBERS], which wells may be replaced from time to time with notice to the Watermaster.

8. The covenant's conditions, and restrictions set forth in Sections 5 through 7 herein are for the benefit of Grantee and Grantee's Parcel. This Restrictive Covenant may be enforced only in accordance with Section VII.A(1) of the Judgment by Grantee, by any Party to the Judgment having or acquiring any right, title or interest in Grantee's BPA or in Grantee's Parcel, by the Watermaster, or by the Court maintaining continuing jurisdiction over the Judgment. Grantee may assign any of its rights and powers under this Restrictive Covenant to any Party to the Judgment having or acquiring any right, title or interest in Grantee's BPA or in Grantee's Parcel. Upon the recordation of such assignment in the Official Records, such assignee, to the extent of such assignment, shall have the same rights and powers as are given to Grantee herein.

[End of Covenants, Conditions, and Restrictions Applicable to Declarant's Retained Parcel]

General Provisions

9. This Restrictive Covenant may not be modified, terminated or rescinded, in whole or in part, except by a written instrument duly executed and acknowledged by the Declarant, with the approval of the Watermaster, and recorded in the Official Records.

10. This Restrictive Covenant shall become effective upon its recordation in the Official Records. Within thirty (30) days of the date of recordation, Grantee shall provide written notice to the Watermaster of such recordation and the BPA Division set forth in this Restrictive Covenant.

11. In the event any action shall be instituted in connection with this Restrictive Covenant, the party prevailing in such action shall be entitled to recover from the other parties all of its costs and expenses incurred therein, including without limitation reasonable attorneys' fees as finally determined by a court of competent jurisdiction.

12. In the event that any portion of this Restrictive Covenant shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Restrictive Covenant shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

13. This Restrictive Covenant shall be given a fair and reasonable construction in accordance with the intentions of the parties and without regard for or aid from any canons requiring construction against the party drawing this Restrictive Covenant.

14. The breach of any covenants, conditions or restrictions herein contained shall not defeat, invalidate nor impair the obligation or priority of any mortgage or deed of trust now or hereafter executed and constituting a lien upon Grantee's Parcel or any portion thereof, which is made in good faith and for value; provided, however, that any party, including the holder of the mortgage or deed of trust, who acquires title through private or judicial foreclosure, trustee's sale

or deed in lieu of foreclosure (a “**Foreclosure-Purchaser**”) and all successors and assigns of such Foreclosure-Purchaser shall take title subject to all of the covenants, conditions and restrictions contained in this Restrictive Covenant.

15. The breach of any covenants, conditions or restrictions herein contained shall not defeat, invalidate nor impair the obligation or priority of any mortgage or deed of trust now or hereafter executed and constituting a lien upon Declarant’s Retained Parcel or any portion thereof, which is made in good faith and for value; provided, however, that any Foreclosure-Purchaser and all successors and assigns of such Foreclosure-Purchaser shall take title subject to all of the covenants, conditions and restrictions contained in this Restrictive Covenant.

[Signatures on the following page]

**Signature Page to
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
(WATER ALLOCATION RESULTING FROM CONVEYANCE OF PORTION OF BPA
PARCEL AND ASSIGNMENT OF BPA BETWEEN PARCELS)**

Dated: _____

DECLARANT

By: _____

Its: _____

ACKNOWLEDGED BY WATERMASTER:

Dated: _____

By: _____

Its: _____

A notary public or other officer completing this certificate verified only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2020, before me, _____
_____, Notary Public, personally appeared _____
_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they/executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

Exhibit "A"
Legal Description of Original Property

Exhibit "B"
Plat of Original Property

Exhibit "C"
Legal Description of Grantee's Parcel

**Exhibit “D”
Plat of Grantee’s Parcel**

Exhibit “E”
Legal Description of Declarant’s Retained Parcel

Exhibit “F”
Plat of Declarant’s Retained Parcel