

MINUTES
BORREGO SPRINGS WATERMASTER BOARD MEETING
Conducted Virtually via GoToMeeting
Thursday, February 9, 2023, 4:30 p.m.

The following individuals were present at the meeting:

Directors Present	Chair Dave Duncan – Borrego Water District (BWD)
	Vice Chair* Shannon Smith – Recreational Sector
	Tyler Bilyk – Agricultural Sector
	Mark Jorgensen – Community Representative
	Jim Bennett – County of San Diego
Watermaster Staff Present	James M. Markman, Legal Counsel
	Samantha Adams, Executive Director, West Yost
	Andrew Malone, Lead Technical Consultant, West Yost
	Lauren Salberg, Staff Geologist, West Yost
Others Present	Cathy Milkey, representing Rams Hill
	David Garmon
	Diane Johnson, BWD Board Member
	Geoff Poole, BWD General Manager
	Gina Moran
	John Peterson, Environmental Working Group Member
	Kathy Dice, BWD Board Member
	Laurel Brigham, University of California Irvine
	Leanne Crow, Board Alternate – County of San Diego
	Michele Staples, Jackson Tidus, representing AAWARE
	Rebecca Falk
	Rich Pinel, Board Alternate – Recreational Sector
	Tammy Baker, BWD Board Member
	Travis Huxman, University of California Irvine (UCI)
	Trey Driscoll, Intera, representing BWD

**Vice Chair Smith also serves as the Secretary and Treasurer of the Board*

Please visit to the [Watermaster’s Website](#)¹ to access the Agenda Packet, recording, and presentation for the February 9, 2023 Meeting.

I. Opening Procedures

- A. Chair Duncan called the meeting to order at 4:31 PM at which time the meeting recording was started.
- B. Chair Duncan led the meeting participants in the Pledge of Allegiance.
- C. Samantha Adams, Executive Director (ED) called roll and confirmed that all members of the Board were present.
- D. Approval of Agenda.

¹ <https://borregospringswatermaster.com/past-watermaster-meetings/>

Motion: Motioned by Director Jorgensen, seconded by Director Bilyk to approve the Agenda.
Motion carried unanimously by voice vote (5-0-0).

II. Public Correspondence

A. Correspondence Received.

- ED Adams referenced the correspondence from the Borrego Springs Community Sponsor Group included in the Agenda package.
- It was noted that an additional letter was received from Dr. Travis Huxman of UCI communicating information about and containing the draft technical analysis on the groundwater dependent ecosystem project being performed by UCI for the DWR Sustainable Groundwater Management (SGM) Implementation grant. This letter will be distributed to the Directors and can be made available to any member of the public upon request. Dr. Huxman was invited to make Public Comment about the letter and project.

B. Public Comments. Chair Duncan called for public comments. Public comment was made by:

- Dr. Travis Huxman provided an overview of the UCI groundwater dependent ecosystem study and invited the Board and interested stakeholders to review and comment on the groundwater dependent ecosystem study's first technical memorandum. The memorandum has been delivered to Watermaster staff and can be available upon request.
- John Peterson addressed the Board on the topic of the public outreach effort to expand the groundwater monitoring network, which was the subject of the letter from the Borrego Springs Community Sponsor Group.

III. Consent Calendar. Chair Duncan called for any discussion on the Consent Calendar items included in the February 9, 2023 Agenda package. Vice Chair Smith highlighted two new items presented in the financial report in the Agenda package, which include:

- The inclusion of grant funding (reimbursements) expected from DWR (via BWD) for work done on the SGM implementation for Water Year (WY) 2022 and 2023 reimbursable tasks. The expected grant reimbursements are listed as "income" on page 14 of 313 in the Agenda package.
- The interest charges incurred from the delayed payment plan established between Watermaster and West Yost, which are shown on page 18 of 313 in the Agenda package.

Motion: Motioned by Director Bennett, seconded by Director Jorgensen to approve the Consent Calendar. *Motion carried unanimously by roll-call vote (5-0-0).*

IV. Items for Board Consideration and Possible Action

- ### A. *Hearing to Review the 2022 Draft Annual Report to the DWR.* ED Adams gave an overview of the *Water Year 2022 Annual Report for the Borrego Springs Subbasin* that was noticed and distributed to the public on January 30, 2023 and the supplemental report of the Annual Audit for WY 2022, both included in the Agenda Package. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by John Peterson.

The key points of discussion included:

- The groundwater elevations hydrographs for certain wells in the South Management Area (presented in Appendix E of the Annual Report) show a concerning rate of decline. Chair Duncan requested that the Technical Consultant provide an overview of groundwater elevations and aquifer conditions during the March 2023 Board meeting.
- What actions would be triggered if a Minimum Threshold is reached at a well during the Implementation Period.
- Confirmation that Parties with manual-read meters are responsible for the cost associated with the meter reading program.
- Clarification on non-reimbursable and partially-reimbursable expenses listed for the Biological Restoration of Fallowed Lands project on page 187 of 313 in the Agenda. Non-reimbursable work was that performed prior to the reimbursable period for the SGM implementation grant.

Following the discussion, the Board directed staff to (1) bring the final financial audit to the March Board meeting for approval as a standalone agenda item and (2) incorporate the relevant comments received during the hearing into the draft Final Annual Report.

B. Consideration of Approval for Revised Scope and Budget for the Redetermination of the Sustainable Yield by 2025. Andy Malone presented the recommendations for the revised scope of work and budget for the redetermination of the Sustainable Yield by 2025, including the detail on the separate Technical Advisory Committee (TAC) and Technical Consultant recommendations. At the conclusion of the presentation, Chair Duncan opened the floor to hear input from TAC members, receive public comment, and Board discussion. There were no public comments.

The key points of discussion included:

- TAC consensus was reached to recommend performing Tasks 1, 2, 3, 6, and 7 considered in the scoping process. TAC consensus was reached to not perform Task 5 *Upgrade BVHM to Use the New Version of MODFLOW-OWHM*. One TAC member recommended performing Task 4 *Develop and Implement New Methods to Estimate Recharge*, no other TAC members concurred with the recommendation to perform Task 4.
- The Technical Consultant recommended performing Tasks 1, 2, 3, 4, 6, and 7 and did not recommend performing Task 5.
- Trey Driscoll, TAC member representing BWD, provided an explanation of his recommendation to perform Task 4 so that a reproducible and defensible method can be used for future model updates.
- Jim Bennett, TAC member representing County of San Diego explained that he did not recommend Task 4 be performed because subsurface and stream inflows represent only a fraction of total recharge to the Basin and the limited availability of data prevents producing a satisfactory method for validation of the model.
- Explanation that the DWR would be receptive to changes in the scope of work associated with the SGM grant.
- Clarification on the variance between the budget for the recommended scope of work relative to what was assumed in the SGM grant application.

- Options for reducing and/or removing funding from certain tasks within the approved SGM grants. With regard to the SGM Grant tasks related to the construction and monitoring of a surface water station, the Board noted that the TAC could discuss this task at its upcoming meeting and weigh-in if it should still be considered for implementation due to the reduced time available to complete the grant scope of work and the feasibility of securing permission to monitor within the State Park boundary.

Motion #1: Motioned by Director Bennett, seconded by Vice Chair Smith to approve the TAC-recommended scope-of-work for the redetermination of the Sustainable Yield by 2025. *Motion carried unanimously by roll-call vote (5-0-0).*

Motion #2: Motioned by Vice Chair Smith, seconded by Director Jorgensen, to (1) approve Option 2 for repurposing the SGM grant funds to support the revised redetermination of the Sustainable Yield and establish the first of up to two budget amendments, and (2) request the TAC to perform a review of the streamflow monitoring station project in the SGM grant. *Motion carried unanimously by roll-call vote (5-0-0).*

C. *Consideration of Approval for the TAC Roles and Responsibilities Resolution.* ED Adams provided a summary of the draft resolution to define the roles and responsibilities of participants in TAC process, as presented in the memo included in the Agenda package. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. There were no public comments.

The key points of discussion included:

- The time allowed for TAC review of TAC reports should be reduced from the stated minimum of three weeks. The current review process provides the TAC with three-weeks to review reports. It was recommended that the resolution allow ***up to*** three-weeks for a review.
- Concern that allowing TAC members to produce their own supplemental reports may delay progress and produce an excess amount of work for the Board to review work and make informed decisions. It was recommended that instead of producing supplemental reports, TAC members be allowed to provide materials with the TAC meeting package and present pertinent information at the TAC meeting that can then subsequently be documented in a TAC recommendation report.
- The resolution should specify that email correspondence between the Technical Consultant and the TAC include all TAC members throughout the duration of the correspondence (*e.g.*, cc'ing all TAC members on every email).

Following the discussion, the Board directed staff to revise the draft Resolution considering the comments made during the meeting and present the revised resolution to the Board for approval at the March Board meeting.

D. *Consideration of Approval of an Assignment of Interests in License Agreement for Groundwater Monitoring Stations by Borrego Water District to Borrego Springs Watermaster.* Mr. Malone

provided background on the new monitoring well funded by the DWR's Technical Support Services (TSS) program and summarized the License and Assignment Agreements that would allow DWR and BWD to access the property hosting the monitoring well included in the Agenda package. Mr. Markman spoke about the process to prepare the Agreement with BWD, DWR, and T2 Borrego. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Michele Staples.

The key points of discussion included:

- Confirmation that indemnification language is included in the Assignment Agreement.

Motion: Motioned by Director Jorgensen seconded by Director Bilyk, to approve the Assignment Agreement. *Motion carried unanimously by roll-call vote (5-0-0).*

E. Draft Meter Reading Program Resolution. ED Adams provided a summary of the origin of the draft Meter Reading Program Resolution and requested Board input on the draft resolution included in the Agenda Package. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Tammy Baker and Michele Staples.

The key points of discussion included:

- The meter reporting frequency and annual accuracy testing is a mechanism that helps confirm that pumpers aren't tampering with their meters.
- Recommendation to add a confidentiality statement in Exhibit 5 to be consistent with the confidentiality agreements in Exhibits 2 and 3.
- Recommendation to add a "three-strikes" provision allowing the Watermaster to begin meter-reading at wells for any Party who fails to self-report after a certain amount of consecutive reads.

Following the discussion, the Board directed staff to revise the draft Resolution considering the comments made during the meeting and present the revised resolution to the Board for approval at the March Board meeting.

F. Discussion of In-Person Board Meeting Frequency. ED Adams described the current schedule for in-person Board meetings and summarized the Board request to consider the frequency of in-person meetings budgeted and scheduled for WY 2023. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Michele Staples.

The key points of discussion included:

- Confirmation that all in-person Board meetings would offer a remote call-in option for the public to attend.
- Clarification that the current schedule and budget specifies two in-person meetings per year, coupled with an Open House.
- That staff should continue to budget two in-person meetings per year.
- The next in-person meeting is not scheduled and could occur in May or June 2023.

Motion: Motioned by Vice Chair Smith seconded by Jorgensen, to establish a standard practice of holding two in-person Board meetings annually. *Motion carried unanimously by roll-call vote (5-0-0).*

G. *Fall 2022 Semi-Annual Monitoring Report.* Lauren Salberg provided a summary of the Fall 2022 Monitoring Event, which was detailed in a report included in the Agenda package. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by John Peterson, Michele Staples, and Cathy Milkey.

The key points of discussion included:

- There is limited monitoring in the North Management Area. This is being addressed by the Groundwater Monitoring Plan.
- Clarification of the beneficial use of wells with water quality exceedances identified in Exhibit 4 of the Report.
- Suggestion to plot the screened interval of the wells in Exhibits 5 through 9 to visualize which aquifer layers the water quality results represent.

No Board action was taken.

H. *Implementation of Groundwater Management Plan PMAs.* ED Adams provided a summary of the six Project and Management Actions (PMAs) described in the Groundwater Management Plan (GMP) and how the Judgment addresses each PMA, as summarized in the memo included in the Agenda package. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Diane Johnson and Rebecca Falk.

The key points of discussion included:

- Several actions for the PMAs are actively being implemented through Judgment compliance, such as pumping reductions, water transfers, and developing the water quality monitoring plan.
- A Board discussion should be had to determine the current status of all PMAs and identify the future actions necessary to implement all PMAs, but this should be done at a future date after current top priorities with Judgment deadlines are completed.

No Board action was taken.

V. Reports.

A. Legal Counsel Report. Jim Markman reported on the following upcoming Court dates:

- February 17, 2023 - Status conference. A status conference report has been circulated and will be filed with the Court. Mr. Markman reported that there is currently no opposition.
- April 20, 2023 – Hearing to amend the filing date of the Annual Report in the Judgment from February 1st to April 1st of each year.

B. Technical Consultant Report. Mr. Malone reported on the following items included in the Agenda package. Discussion included:

- The latest progress in utilizing public outreach for identifying existing wells, noting that one new well in the North Management Area has been added to the monitoring network.
- The public outreach process is being explicitly written into the Groundwater Monitoring Plan.
- The regularly scheduled Board meeting for April 13, 2023 should be rescheduled for April 6, 2023, in which the Groundwater Monitoring Plan can be approved and meet the deadline established in the Judgment.
- Director Jorgensen reported that the January 27, 2023 EWG meeting and the draft report on the Biological Restoration of Fallowed Lands project prepared by Land IQ were very impressive.

C. Executive Director Reports. NONE. ED Adams agreed to provide the three-month outlook of Watermaster Activities to all Board members via email.

D. Chairperson’s Report. NONE

VI. Board Member Comments. Chair Duncan called for comments.


- Chair Duncan thanked all participants for their patience and participation in the long meeting.
- Director Bilyk expressed that he had been in communication with Mr. Malone and, together, they’ve been working on outreach plans for requesting existing agricultural wells to include in the monitoring network.

VII. Next Meetings of the Borrego Springs Watermaster. Chair Duncan reviewed the potential agenda items for the next Board meetings listed in the Agenda package. The next meetings are:

- Regular Board Meeting – Thursday, March 9, 2023 at 4:30 pm
- Regular Board Meeting – Thursday, April 6, 2023 at 4:30 pm (Rescheduled from regular date of second Thursday of the month)

VIII. Adjournment

A. Chair Duncan adjourned the meeting at 8:00 PM.



Recorded by:
Lauren Salberg, West Yost Staff

Attest:
Shannon Smith, Vice Chairperson, Secretary,
and Treasurer of the Board