

**MINUTES**  
**BORREGO SPRINGS WATERMASTER BOARD MEETING**  
**Conducted Virtually via GoToMeeting**  
**Thursday, January 12, 2023, 4:30 p.m.**

The following individuals were present at the meeting:

<b>Directors Present</b>	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
<b>Watermaster Staff Present</b>	James M. Markman, Legal Counsel
	Samantha Adams, Executive Director, West Yost
	Andrew Malone, Lead Technical Consultant, West Yost
	Lauren Sather, Staff Scientist, West Yost
<b>Others Present</b>	Cathy Milkey, representing Rams Hill
	David Garmon
	Diane Johnson, BWD Board Member
	Geoff Poole, BWD General Manager
	Jessica Clabaugh, BWD Finance Office
	Jim Dax
	John Peterson, Environmental Working Group Member
	Kathy Dice, BWD Board Member
	Leanne Crow, Board Alternate – County of San Diego
	Martha Deichler, Board Alternate – Community Representative
	Rebecca Falk
	Rich Pinel, Board Alternate – Recreational Sector
	Steve Anderson, BB&K, representing BWD
	Tammy Baker, BWD Board Member
	Travis Huxman, University of California Irvine
	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](#)<sup>1</sup> to access the Agenda Packet, recording, and presentation for the January 12, 2023 Meeting.

**I. Opening Procedures**

- A. Chair Duncan called the meeting to order at 4:30 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.

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

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

## II. Public Correspondence

- A. Correspondence Received. None.
- B. Public Comments. Chair Duncan called for public comments. There were no public comments.

## III. Consent Calendar.

Chair Duncan called for any discussion on the Consent Calendar items included in the January 12, 2023 agenda package. The discussion included.

- Vice Chair Smith requested clarification on the Settling Party Reimbursements made to two Parties listed on page 12 of 57 in the Agenda Packet. ED Adams replied that the reimbursement to the two settling Parties was initially withheld because neither Party was in good standing with the Watermaster at the time. As of completing the WY 2022 water rights accounting, both Parties provided sufficient metered data for WYs 2021 and 2022 to estimate pumping and had paid off past-due invoices and were thus in good standing as of the end of WY 2022.

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

## IV. Items for Board Consideration and Possible Action

A. *Technical Advisory Committee Process.* ED Adams provided a summary of the draft guidelines to define the roles and responsibilities of participants in Technical Advisory Committee (TAC) process, as presented in the Staff memo included in the January 12 Agenda Packet. Following the presentation, Chair Duncan invited any TAC members present to provide comments on the draft guidelines and the TAC process. TAC input included:

- Trey Driscoll (BWD) requested
  - Consideration to allow TAC members to formally request additional time beyond the initial review period and elect to prepare a Supplemental Report.
  - Consideration to allow TAC members to request to present supplemental information to the Board and establishing a request process to do so.
- Jim Bennett (County) recommended to change the language on page 4 of 5 in the draft guidelines from “may timely review the TAC meeting recording” to “should timely review the TAC meeting recording” to set the expectation that TAC members, if unable to attend a TAC meeting, should watch the TAC meeting recording to formulate their decision(s).

Following comments by TAC members, Chair Duncan opened the floor to public comment, which was followed by Board discussion. Public comments were made by John Peterson, Tammy Baker, Kathy Dice.

The key points of discussion included:

- Vice Chair Smith later expressed disagreement with this suggestion, stating that extended review periods and preparation of supplemental reports would create substantial additional work, therefore increasing costs to Pumpers.

- The process for public comment during TAC meetings.
- Clarification that the Technical Consultant’s role is not limited to acting as a facilitator amongst the TAC. The TAC creates its own consensus and the Technical Consultant is responsible for facilitating and reporting the consensus to the Board. Additionally, the Technical Consultant will produce their own recommendation to the Board, separate from the TAC, but in consideration of TAC discussions.
- Suggested edits to the draft guidelines included in the Agenda Packet, including:
  - Revising the sentence describing the Technical Consultant’s Role and Responsibility on page 43 of 57 in the Agenda Packet to “The Technical Consultant is an independent advisor to the Watermaster Board that is responsible for facilitating the TAC.” by adding a period to the end of the statement. This revision will clarify that the Technical Consultant receives direction from the Board, not the TAC.
  - Changing the language regarding the Technical Consultant’s responsibilities on pg. 44 of 57 in the Agenda Packet from “with the goal of achieving consensus” to “with the goal of *facilitating* consensus”.

Following the discussion, the Board directed West Yost to prepare a draft Resolution on the roles and responsibilities of the TAC and advised West Yost to use their professional judgement in incorporating the comments received during the Board meeting into the guidelines. No Board action was taken.

B. *Metering Program Recommendation.* This topic was deferred to a future meeting.

C. *Public Outreach to Identify Existing Wells for Watermaster’s Monitoring Programs.* Mr. Malone provided background and a status update on the Watermaster’s effort to develop a public outreach program to identify existing wells to incorporate into the Watermaster’s Monitoring Programs. Mr. Malone reviewed the materials in the draft packet of information for public distribution, included in the Agenda Packet. At the end of the presentation, Mr. Malone requested feedback from the Board and the recommended next steps to initiate the public outreach effort. 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, Rebecca Falk, Jim Dax, Diane Johnson, and Martha Deichler.

The key points of discussion included:

- The packet and the outreach program are intended to help the public volunteers solicit interest in participating in the monitoring program from private well owners.
- An important part of outreach will include engaging with private well owners is via public volunteers who can act as a liaison between the well owners and the Watermaster.
- Concerns that the formal approach (lengthy documents, requesting signatures) will make private well owners reluctant to participate in the monitoring program, and it should be simplified.
- Members of the public expressed interest in and volunteered to participate in the public outreach efforts.
- Request for AAWARE to also perform outreach, specifically in the North Management Area.

- Director Bilyk expressed interest to support public outreach to Ag Pumpers in the North Management Area.
- The need for an FAQ that could be used to help answer questions that well owners may have about the monitoring program.
- Confirmation that all wells, including de Minimis wells, would be considered for inclusion in the monitoring network.
- While the North Management Area is a priority, all well owners interested in participating in the monitoring program are welcomed, although not all wells may be included in the program.
- Depending on the level of interest from well owners, it may be helpful to have the TAC establish an evaluation process to determine which wells will be added to the monitoring program, in order to maintain an efficient program.
- Suggested edits to the draft packet of information for distribution to prospective well owners, including:
  - Withholding the Data Confidentiality Agreement from the packet. This form can be used on an as-needed basis.
  - Simplifying the Potential Participant Information Form to request only basic contact information.
- Request for West Yost to provide a summary on the Fall 2022 monitoring event during the February Board meeting.
- The Chair inquired to the Board if anyone disagreed with the idea to initiate public outreach component of the monitoring program. No one disagreed.

Following the discussion, the Board directed staff to initiate the public effort to solicit private well owners to participate in the groundwater monitoring program. No Board action was taken.

*D. Prop 68 Grant Update.* ED Adams provided an update on the status of the Prop 68 Grant, which was executed by BWD in December 2022 and by the DWR in January 2023. ED Adams also provided a summary of the discussion held during BWD’s kick-off meeting with Sub-grantees and noted that the final Sub-grantee Agreements are next to be signed. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Cathy Milkey.

The key points of discussion included:

- It is anticipated that the first reimbursement request will be due on February 15, 2023 and West Yost is prepared to quickly submit the Watermaster’s first reimbursement request. ED Adams stated that the reimbursement items are ready, however, the information will need to be organized into DWR’s reporting format.
- The first grant reimbursement request will likely take the longest to review and receive funding, roughly three to six months.
- Although the Grant Agreement has been delayed, Watermaster staff has continued to perform essential tasks that are reimbursable.

No Board action was taken.

- E. *Review Prop 68 Grant Biological Restoration of Fallowed Lands Project Scope of Work and Subconsultants.* Mr. Malone provided background on the Prop 68 Biological Restoration of Fallowed Lands Project and identified the participants involved and their respective responsibilities in this project, particularly the biology consultant Land IQ and its subconsultant UCI. At the conclusion of the presentation, Chair Duncan requested an articulation of any concerns regarding the consultants that are planned to perform the Project. Director Bilyk stated concerns about unintentional bias because of shared staff resources at UCI between this project and the grant funded Groundwater Dependent Ecosystem study. To address the concern, Director Bilyk requested that (1) language be added to the contract to delineate roles and responsibilities between staff and resources amongst the two grant funded projects and, (2) the contract be executed directly between Watermaster and Land IQ.

Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Travis Huxman, Steve Anderson, David Garmon, and Rebecca Falk. The key points of discussion included:

- The two projects have different, independent lead researchers. However due to limited staff available, there will likely be shared student researchers between projects.
- All data and work plans will be subject to review and ultimately made available to the public.
- There is a potential that all sole-source contracts must be justified to DWR to meet the grant requirements.
- The two projects have distinct scopes of work and objectives that are not related to each other.
- The findings of the prior GDE analysis performed for the GMP and how the work being performed for the grant differs from the GMP analysis.
- How to draft the Land IQ contract to create a “firewall” between the Biological Restoration and GDE projects.
- Pros and cons of contracting Land IQ directly with Watermaster versus as a subconsultant to West Yost.
- Confirmation that Land IQ agreed to the same Payment Terms as West Yost.
- The contract with Land IQ should include a statement that UCI will utilize separate principal scientists.

**Motion:** Motioned by Director Bilyk seconded by Vice Chair Smith, to (1) contract directly with Land IQ and Watermaster, assuming there are no financial implications for Land IQ to perform the work and (2) include a statement in the contract that UCI will utilize separate principal scientists on the two grant-funded projects. *Motion carried with four of five role-call votes (4-1-0).* Jorgensen opposed the motion.

- F. *Consideration of Approval of the Agendas for Technical Advisory Committee and Environmental Working Group Meetings.* ED Adams gave an overview of the proposed agendas for the upcoming TAC and EWG meetings to the Board. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. There was no public comment.

**Motion:** Motioned by Jorgensen, seconded by Director Bennett, to approve the agendas for the TAC and EWG meetings. *Motion carried unanimously by roll-call vote (5-0-0).*

**V. Reports.**

- A. Legal Counsel Report. Mr. Markman reported that a motion has been prepared to amend the Judgment to move the deadline of the Annual Report to April 1<sup>st</sup> and a hearing for the motion is scheduled for April 13, 2023. Since the Judgment will still state that the Annual Report is due on February 1<sup>st</sup>, a working draft of the WY 2022 will be filed with the Court no later than February 1, 2023 with an explanation the final report will be filed following its approval by the Board. No one has indicated opposition to this motion. Mr. Markman also confirmed that a status conference is scheduled for February 17, 2023.
- B. Technical Consultant Report. ED Adams reported on behalf of Andy Malone on the following items:
- Scope of work and budget for the Redetermination of Sustainable Yield
  - Groundwater Monitoring Plan next steps and schedule
- C. Executive Director Reports. ED Adams reported on the following items, which are summarized in the Board presentation file:
- SGMA Annual Report Progress and Schedule to Complete
  - Summary of December 2022 Open House
  - Three-month outlook of Watermaster activities
- D. Chairperson's Report. Chair Duncan expressed interest in holding in-person meetings quarterly and asked that a formal discussion be held during the next meeting to formalize a schedule for meeting in-person.


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


- Vice Chair Smith thanked the Watermaster Board for allowing all opinions to be heard and expressed that through these difficult conversations, sustainable management of the Basin will be achieved.

**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.

- Regular Board Meeting – Thursday, February 9, 2023 at 4:30 pm
- Regular Board Meeting – Thursday, March 9, 2023 at 4:30 pm

**VIII. Adjournment** - Chair Duncan adjourned the meeting at 7:26 PM.

  
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Recorded by:  
Lauren Salberg, West Yost Staff

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