

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

The following individuals were present at the meeting:

Directors Present	Chair Dave Duncan – Borrego Water District (BWD)
	Vice Chair Tyler Bilyk – Agricultural Sector
	Secretary and Treasurer Shannon Smith – Recreational 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
	Diane Johnson, BWD Board Member
	Geoff Poole, BWD General Manager
	Jim Dax, Board Alternate – Community Representative
	Leanne Crow, Board Alternate – County of San Diego
	Rich Pinel, Board Alternate – Recreational Sector
	Rodney Bruce, Rams Hill
	Steve Anderson, BB&K, representing BWD
	Tammy Baker, BWD Board Member
	Travis Brooks, Land IQ
	Trey Driscoll, Intera, TAC Member representing BWD

Please visit the [Watermaster's Website](https://borregospringswatermaster.com/past-watermaster-meetings/)¹ to access the Agenda Packet, recording, and presentation for the October 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 a quorum of all members of the Board were present.
- D. Approval of Agenda.

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

- II. Election of Board Officers.** ED Adams explained officers are elected annually at the start of each Water Year (WY). Current officers from WY 2023 are Directors Duncan (Chair) and Smith (Vice Chair, Secretary, Treasurer).

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

- Vice Chair Smith nominated Director Bilyk to serve as Vice Chair of the Board in water year (WY) 2024 and Director Bilyk noted his willingness to accept the position.
- Director Jorgensen expressed support for Vice Chair Smith and Director Duncan to keep their positions as Secretary/Treasurer and Chair, respectively.

Motion: Motioned by Director Jorgensen, seconded by Vice Chair Smith to approve elect the following slate Board Officers in WY 2024: Chair Dave Duncan, Vice Chair Tyler Bilyk, Secretary Shannon Smith, and Treasurer Shannon Smith. *Motion carried unanimously by roll-call vote (5-0-0).*

III. Public Correspondence

- A. Correspondence Received. None.
- B. Public Comments. Chair Duncan called for public comments. Public comment was made by Rich Pinel, Jim Dax, and Diane Johnson, all who expressed gratitude to the Board members for their service.

IV. Consent Calendar. Chair Duncan called for any discussion on the Consent Calendar items included in the October 12, 2023 Agenda package. Public comment was made by Diane Johnson. Discussion included:

- Legal counsel Markman described concerns that had been raised associated with the transfer of Carryover water from W. Bauer to BSUSD (Item IV.C), noting that it may have been in contradiction to the Judgment provisions for W. Bauer to have retained Carryover after a permanent transfer of their full BPA and BPA parcel. Mr. Markman recommended this item be pulled from the consent calendar for further review, also noting that discussions with Settling Party attorneys had been initiated to better understand the intent of the transfer provisions in the Judgment.
- The Board directed staff to further evaluate the transfer provisions of the Judgment and make a policy recommendation to the Board to update/improve the process for review and approval of transfers.

Motion: Motioned by Vice Chair Bilyk, seconded by Director Jorgensen to approve the Consent Calendar excluding Item IV.C *Transfers Receive and file Transfer of Water Rights: Carryover Transfer from W. Bauer to BSUSD*, and table this Item to a future Board meeting. *Motion carried unanimously by roll-call vote (5-0-0).*

V. Items for Board Consideration and Possible Action

- A. *Review of Draft Water Year 2023 Water Rights Accounting.* ED Adams summarized 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:

- Clarification that the Borrego Springs Unified School District and Anza Borrego Desert State Park are Parties to the Judgment but are considered “non-BPA Parties” because they are not assigned Baseline Pumping Allocation (BPA) in the Judgment. These Parties are assigned

Pumping rights in the Judgment that are not subject to Rampdown requirements, nor do they have Carryover rights.

- Director Smith noted that the reduced pumping in WY 2023 shows that the Basin is moving in the right direction towards sustainable management and expressed gratitude for Pumpers' compliance.

No Board action was taken.

B. Consideration of Approval to Contract with C.J. Brown & Company, CPAs to Perform the WY 2023 Annual Financial Audit. ED Adams described the proposal to perform the WY 2023 financial audit 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:

- C.J. Brown & Company, CPAs is equipped to perform the WY 2023 financial audit for the Borrego Springs Watermaster. Although they are a smaller company, their specialty is independent districts, and they have experience servicing larger basins, such as the Chino Basin.
- Director Smith met with auditor at C.J. Brown & Company.
- The proposal by C.J. Brown & Company, CPAs includes a five-year forecast, which shows how the process would increase in efficiency over time (assuming the first audit is the least efficient). Although the CPA provided a five-year cost estimate, the length of the contract is not five years.
- Board members were pleased by C.J. Brown & Company, CPAs client list and hourly rates compared to other firms that submitted bids.

Motion: Motioned by Director Smith, seconded by Director Jorgensen, to approve the \$8,340 proposal by C.J. Brown & Company, CPAs to perform the financial audit. *Motion carried unanimously by roll-call vote (5-0-0).*

Following the discussion, the Board directed Staff to engage with C.J. Brown & Company, CPAs.

C. Approval of Sand Fence Easement Agreements. Andy Malone summarized the memo included in the Agenda package. Mr. Markman described the provisions included in the Easement Agreements between the Watermaster and landowners. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comments were made by Cathy Milkey, Tammy Baker, Geoff Poole, and Travis Brooks.

The key points of discussion included:

- Specification that the T2 property is located in the North Management Area of the Basin.
- Clarification that the Easement Agreements state that the condition will meet or exceed the "minimum following standards" and do not waive following standards. Some following

procedures, such as removing irrigation lines, may be performed while preparing the site for study participation.

- Mr. Markman is comfortable with the language “reasonably acceptable” in the agreements, which imply that the property could be left in at least the same condition as prior to the start of the study.
- Director Smith identified differences in the payment terms with Land IQ in the contract approved by the Board versus payment terms in the current contract, asking if Land IQ could increase the amount of the payment terms that were expected by the Board when direction was given to staff to contract with Land IQ.
- ED Adams clarified that Land IQ was not able to increase the limit of the Payment Terms due to the small size of the company. She noted that the financial model has been updated to reflect the correct payment terms and current spending. Based on the updates, the Watermaster has a surplus of cash reserves that can be used to make payments to West Yost and Land IQ to maintain in compliance with Payment Terms. Depending on the timing of the DWR check, the payments could draw down the cash reserve below the target for two to three months.
- Geoff Poole (BWD) stated that he is expecting a signature request from DWR to release the first grant reimbursement check and that funds are generally received approximately one month after signatures are received.

Motion: Motioned by Director Jorgensen, seconded by Director Bennett, to approve easement agreements with T2 and BWD to allow Borrego Springs Watermaster staff, consultants, and subconsultants to enter onto parcels owned by T2 and BWD for the purposes of conducting Task 3 of the Biological Restoration of Fallowed Lands project. *Motion carried unanimously by roll-call vote (5-0-0).*

Following the discussion, Director Smith requested staff to discuss and negotiate payment terms between West Yost and Land IQ.

D. Consideration of Approval of the Agenda for the Next Technical Advisory Committee Meeting. Mr. Malone presented the proposed agenda for the upcoming TAC meeting scheduled for November 1, 2023. 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.

The key points of discussion included:

- The Board expressed concern that the number of the proposed Agenda topics was too ambitious considering the time allocated for the meeting and recommended that Watermaster Staff prioritize Agenda items; the highest priority item being the Redetermination of the Sustainable Yield. The additional items could be included as information only, and not for discussion.

Motion: Motioned by Director Bennett seconded by Director Smith, to approve the TAC meeting agenda to include Items #1 through 4 of the TAC agenda as discussion items and Items #5 and 6 as

additional Item be disseminated as technical memos only. *Motion carried unanimously by roll-call vote (5-0-0).*

- E. *Process and Schedule to Complete the Water Year 2023 Annual Report.* ED Adams provided an overview of and the process and schedule for completing the WY 2023 Annual Report in compliance with the new Court-defined filing deadline of April 1, 2024. 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 process and cost to complete the WY 2023 Annual Report will be similar to that of the WY 2022 Annual Report. The only change to the cost of preparing the WY 2023 Annual Report compared to the WY 2022 Annual Report is related to the change in billing rates.

No Board action was taken.

VI. Reports.

- A. Legal Counsel Report. Mr. Markman reported that a new Judge, Judge Melissa McCormick, had been assigned to the case. A Status Conference will be scheduled for November or December, and once scheduled, notice will be distributed to interested Parties.
- B. Technical Consultant Report. Mr. Malone reported out from the September 26, 2023 Environmental Working Group meeting (see Board presentation slides). Discussion included that there may be opportunities to apply for additional grant funding through collaboration with Wildland Urban Interface Climate Action Network (WUICAN).
- C. Executive Director Reports. ED Adams reported on the following items:
- *SGM Implementation Grant update.* ED Adams reported that DWR has received the second grant reimbursement request report (for the period of April to June 2023) and payment is expected around January 2024.
 - *Water Rights Transfer Forms update.* ED Adams described the motivations for deferring this Agenda item from the October to the November Board meeting dates, which include avoiding confusion during the WY 2023 Water Rights Accounting process and awaiting clarification on policy questions.
 - *October-December look-ahead of Staff activities and Pumper requirements.* ED Adams provided a three-month look ahead of activities and noted that the length of the Open House is intended to accommodate more people.
- D. Chairperson's Report. Chair Duncan thanked everyone for their support of his Chairmanship.

VII. Approval of Agenda Items for November 9, 2023 Board Meeting. ED Adams reviewed the potential agenda items for the next Board meetings listed in the agenda package. The Board discussed items to be included on the November 9, 2023 Board meeting agenda, in addition to items listed in the Agenda package. Discussion included:

- Agreement that the discussion on the best available science should be agendaized for a future meeting.
- ED Adams updated the proposed Agenda for the November 9, 2023 meeting on the meeting screen based on discussion, noting it now includes the following items:
 - Review final WY 2023 Water Rights Accounting
 - Review draft Resolution to update Water Rights Transfer Forms (deferred from inclusion in October meeting package)
 - Review draft Resolution to address third-party requests for Watermaster resources (per Board direction at the July 13, 2023 meeting)
 - Final WY 2023 Budget review
 - Water Rights Transfers Policy Review


Motion: Motioned by Vice Chair Bilyk seconded by Director Bennett, to approve the November 9, 2023 agenda presented. *Motion carried unanimously by roll-call vote (5-0-0).*


VIII. Board Member Comments. Chair Duncan called for comments. There were no Board comments.

IX. Next Meetings of the Borrego Springs Watermaster. Chair Duncan reviewed the meetings listed in the agenda package.

X. Adjournment

A. Chair Duncan adjourned the meeting at 6:26 PM.


 Recorded by:
 Lauren Salberg, Staff Geologist, West Yost


 Attest:
 Shannon Smith, Secretary and Treasurer of the Board