

MINUTES
BORREGO SPRINGS WATERMASTER BOARD MEETING
Conducted Virtually via GoToMeeting
Thursday, January 11, 2024 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 (arrived at 4:47pm)
	Samantha Adams, Executive Director, West Yost
	Andrew Malone, Lead Technical Consultant, West Yost
	Lauren Salberg, Staff Geologist, West Yost
Others Present	Diane Johnson, BWD Board Member
	Ethan Steiner, County of San Diego
	Geoff Poole, BWD General Manager
	Jessica Clabaugh, BWD Finance Office
	Jim Dax, Board Alternate – Community Representative
	Kathy Dice, Board Alternate - BWD
	Leanne Crow, Board Alternate – County of San Diego
	Steve Anderson, BB&K, representing BWD
	Tammy Baker, BWD Board Member
	Travis Huxman, UCI
	Trey Driscoll, Intera, TAC Member representing BWD
	William Bauer

Please visit the [Watermaster's Website](#)¹ to access the Agenda Packet, recording, and presentation for the January 11, 2024 Meeting.

I. Opening Procedures

- A. Chair Duncan called the meeting to order at 4:39 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 Bilyk, seconded by Director Bennett to approve the Agenda. *Motion carried unanimously by voice vote (5-0-0).*

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

II. Public Correspondence

- A. Correspondence Received. No correspondence was received.
- 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 11, 2024 agenda package. Discussion included:

- Director Smith thanked the Watermaster Board and the Borrego Water District (BWD) for ensuring the DWR grant reimbursement check was deposited.
- Clarification that Agenda Item III.F is the Transfer of *Carryover* – W. Bauer to BWD, not the Transfer of BPA as listed on the agenda. The name on the agenda is incorrect; however, the Transfer form in the agenda package is correct. The Transfer form finalizes the Transfer of Carryover between W. Bauer and BWD, as discussed at the November 2023 Board meeting. For the purposes of Water Rights Accounting, the Transfer is shown as occurring in WY 2023 although the solution and formal documentation occurred after WY 2023.
- Confirmation that there were no penalties given to Parties who Transferred Carryover in WY 2023 (including the Borrego Springs Unified School District), following the solutions to the Water Rights Accounting discussed at the November 2023 Board meeting.

Motion: Motioned by Vice Chair Bilyk, seconded by Director 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. *Water Year 2023 Annual Report Status.* ED Adams provided a status update on the progress and schedule to complete the Water Year (WY) 2023 Annual Report. 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 topics of discussion included:

- There was no unresolved Overproduction in WY 2023.
- Director Smith confirmed the timeline for receiving and reviewing the WY 2023 financial audit, which will not be available before the draft Annual Report is published is acceptable given new auditor was hired to perform the work this year.

No Board action was taken.

- B. *Watermaster Budget Status Report as of December 31, 2023.* ED Adams provided a summary of 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 or Board discussion.

No Board action was taken.

- C. *Status Update on the Redetermination of the Sustainable Yield.* Mr. Malone provided a status update on the Redetermination of the Sustainable Yield, as summarized in the Agenda package memo. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Steve Anderson and Jim Dax. The key topics of discussion included:

- More TAC meetings may be warranted if the TAC takes on additional responsibilities or for the timely resolution of differences of opinion, including consideration of how the Board could authorize additional TAC meetings, if necessary, the procedures for meetings (based on Judgement and TAC guidelines), and how to address cost implications.
- Clarifications on the TAC guidelines² for situations when the Technical Consultant has a conversation with a TAC member outside of TAC meetings.
- Concern that the TAC schedule is already strained on time and that additional formal meetings may not be the solution.
- Clarification about technical items described in the memo, including confirmation that the statement on page 86 of 103 of the Agenda package is correct: "These updates improved the ability of the FMP to estimate groundwater pumping in WY 2021 and 2022." Mr. Malone described that under Task 2 of the revised scope of work to redetermine the Sustainable Yield, the model's ability to estimate pumping improved through updating the water use factors. The updated model developed in Task 2 was not used in Task 3, because the objective of Task 3 was to quantify the influence of errors in the model on the original water budget. In Task 4, the improvements made in Task 2 and Task 3 will be combined into a version of the model to calibrate. The water use factors may be adjusted in Task 4 during model recalibration, but within reasonable bounds.
- The Board-approved scope of work for the Sustainable Yield included using the Farm Process (FMP) in the model to redetermine the Sustainable Yield.

The Board directed staff to include a status update on the Redetermination of Sustainable Yield each month until completion of the project.

D. *Status Update on the Five-Year Assessment of the GMP.* Mr. Malone provided a status update on the five-year assessment of the Groundwater Management Plan (GMP), as summarized in the Agenda package memo. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Trey Driscoll. The key topics of discussion included:

- The Court's role in updating the GMP. Director Smith requested that Watermaster staff and legal counsel meet to discuss the Court's role with the potential update of the GMP.
- SGMA's guidelines for GMP updates do not mandate that a 5-year assessment of the GMP must result in an update to the GMP, but provide flexibility to plan managers to determine if an update to the GMP is necessary. If the GMP is updated, the DWR requires a redline version.
- The schedule presented in the Agenda package assumes that updates will be made to the GMP so show how grant funding may be utilized if the Watermaster elects to make updates. The TAC should consider the criteria that would warrant an update to the GMP based on the findings of the 5-year Assessment Report.

² Available on the Watermaster's website at: <https://borregospringswatermaster.com/wp-content/uploads/2023/03/Resolution-23-01-Guidelines-for-TAC-Process-Executed.pdf>

- The purpose of Section 4.4 is to identify studies and new information available. The Groundwater Dependent Ecosystem (GDE) project is listed as an example of “Other Studies” included in Section 4.4 of draft outline of the 5-Year Assessment Report (page 97 of 103 of the Agenda package), but it is not expected the work to be complete enough to analyze as part of the 5-year assessment. Its listing would be an indication of the need to consider the work before or during the next 5-year assessment.
- OpenET data is an example of additional data that could be included in Section 4.3 – *Other information not regularly collected by the Watermaster* of the 5-Year Assessment Report.
- Request to include the public review process in the proposed schedule once the Court’s role and DWR review process for update’s is clarified. These items would likely not be completed within the grant funding timeline, which expires in March 2025.

No Board action was taken.

V. Reports.

A. Legal Counsel Report. Mr. Markman reported on the following items:

- A Status Conference was held on December 15, 2023 with the new Judge, Judge McCormick.
- Upcoming Legal activities include:
 - February 28, 2024 - Hearing date for T2 Palms intervening as a Party to the Judgment.
 - March 21, 2024 – Hearing date for the motion to amend the Judgment to allow a Community Representative on the TAC. The notice has been served to all Parties to the Judgment, who may submit comments or opposition until March 8, 2024. If opposition is received, responses to the opposition are due on March 14, 2024.
 - April 25, 2024 - Status Conference.
- Status update on the language regarding Carryover Transfers in the Judgment.
- Mr. Markman confirmed he received and reviewed the credentials for the candidate for the Community Representative TAC member and believes that the candidate meets the Judgment criteria for TAC membership. He suggested that Director Jorgensen write a short letter to the Watermaster appointing the representative that can be received and filed at a Board meeting following the approval of the Judgment amendment by the Court.

B. Technical Consultant Report. Mr. Malone provided a status update on the Biological Restoration of Fallowed Lands project (see slide 34 of the [Board presentation slides](#)). Key topics following the presentation included:

- Concern about groundwater quality in the Basin. Mr. Malone described that he is comfortable with the Watermaster’s approach to addressing water quality, which is to develop a Groundwater Quality Monitoring Plan (completed in Spring 2023), expand the monitoring program, analyze new data as part of the 5-year assessment of the GMP, and identify recommended actions based on the results. This is consistent with approaches in other Basins and is appropriate given that changes in groundwater quality occur over the period of years to decades.

C. Executive Director Reports. ED Adams reported on the following items:

- Prop 68 Grant Updates:
 - The first DWR grant reimbursement check was received at the end of December 2023.
 - DWR has performed a preliminary review of the two subsequent grant reimbursement reports (Q2 and Q3). It is anticipated that DWR will provide additional feedback on the Q2 grant reimbursement report in January 2024.
 - The next grant reimbursement request is due on February 15, 2024.
 - The financial model assumes the next DWR grant reimbursement will be received in March. The model assumes a delay in receiving DWR grant reimbursement dependent on when the last reimbursement was received.
- Meter accuracy tests are underway. Pumpers were notified that the accuracy tests are being funded by the Prop 68 Grant.

D. Chairperson's Report. NONE

VI. **Approval of Agenda Items for February 8, 2024 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 February 8, 2024 Board meeting agenda, in addition to items listed in the Agenda package. Discussion included:

- Recommendation to add a standing formal business item specific to the status of the redetermination of the Sustainable Yield, instead of including it in the Technical Consultant's report.

Motion: Motioned by Director Smith seconded by Vice Chair Bilyk, to approve February 8, 2024 agenda presented on the meeting screen. *Motion carried unanimously by roll-call vote (5-0-0).*

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

- Chair Duncan reminded the group that the TAC is open to the public and that TAC meetings must be made publicly available.

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

IX. **Adjournment**

A. Chair Duncan adjourned the meeting at 6:49 PM.


Recorded by:

Lauren Salberg, Staff Geologist, West Yost

Attest:
Shannon Smith, Secretary and Treasurer of the Board