

MINUTES
BORREGO SPRINGS WATERMASTER BOARD MEETING
Conducted Virtually via GoToMeeting
Thursday, March 14, 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
	Leanne Crow, Board Alternate – County of San Diego
Watermaster Staff Present	Steven Flower, Legal Counsel, RWG
	Samantha Adams, Executive Director, West Yost
	Andrew Malone, Lead Technical Consultant, West Yost
Others Present	Christopher Baker, DWR
	David Garmon
	Diane Johnson, BWD Board Member
	Geoff Poole, BWD General Manager
	Gina Moran, BWD Board Member
	Jessica Clabaugh, BWD Finance Officer
	Jim Dax, Board Alternate – Community Representative
	Jonathan Abadesco, C.J. Brown & Company, CPAs
	Kathy Dice, Board Alternate - BWD
	Miles Krieger
	Rich Pinel, Board Alternate – Recreational Sector
	Rodney Bruce, Rams Hill
	Steve Anderson, BB&K, representing BWD
	Tammy Baker, BWD Board Member
	Travis Huxman, UCI
	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 March 14, 2024 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 was present.
- D. Approval of Agenda.

Motion: Motioned by Director Jorgensen, seconded by Director Crow 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. Chair Duncan referenced the correspondence included in the agenda package addendum. Public comment was made by Travis Huxman and Kathy Dice.
- Travis Huxman, from the University of California Irvine (UCI) provided a summary of the update on the Groundwater Dependent Ecosystem (GDE) included as public correspondence, noting that he will present an update on the project on March 27, 2024 at the Borrego Springs Library.
 - ED Adams confirmed that Mr. Huxman's email was received on March 4, 2024. The March 7, 2024 date listed in the agenda package addendum was a typo.
 - The Board requested to agendaize a presentation on the status update on the GDE project at a future meeting.
- 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 March 14, 2024 agenda package. Discussion included.

- The second and third quarterly grant reimbursement request reports have been approved by DWR and have been submitted to the California state controller for payment.

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

IV. Items for Board Consideration and Possible Action

- A. *Consideration of Approval of WY 2023 Financial Audit.* ED Adams introduced Jonathan Abadesco, from C.J. Brown & Company, CPAs. Mr. Abadesco summarized the Financial Audit for Water Year 2023 by C.J. Brown & Company, CPAs 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.

Motion: Motioned by Director Smith, seconded by Vice Chair Bilyk, to approve the *WY 2023 Financial Audit* by C.J. Brown & Company, CPAs and include it with the Water Year 2023 Annual Report for the Borrego Springs Subbasin. *Motion carried unanimously by roll-call vote (5-0-0).*

- B. *Consideration of Approval of the Water Year 2023 Annual Report.* ED Adams provided an overview of the final Annual Report and memo included in the Agenda package. ED Adams highlighted the comments received on the draft Annual Report and noted which were addressed in the Annual Report and which were outside the scope of the Annual Report and not addressed. 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 points of discussion included:

- Recommendation for the Watermaster to begin tracking and quantifying changes in land use (such as land fallowing). These changes in land use could then be compared to reductions in groundwater pumping to highlight that the pumping reduction is not due to seasonal fluctuations or increased efficiencies.

- Concern that adding a link to the Technical Memorandum (TM) describing the methodology to estimate the change in storage added to the Annual Report may create further confusion, which contradicts the purpose of adding the link to add clarity to the Annual Report.

Motion: Motioned by Vice Chair Bilyk, seconded by Director Smith, to approve the *Water Year 2023 Annual Report for the Borrego Springs Subbasin* and file it with the Court and DWR after removing the link to the storage change TM. *Motion carried unanimously by roll-call vote (5-0-0).*

C. *Discussion on the use of “Best Available Science”.* Chair Duncan opened the conversation by noting that the agenda and memo were confusing giving that the topic title and recommended action were inconsistent between the agenda and the staff memo. ED Adams noted that this was an oversight by Watermaster staff in updating the agenda to match the final staff memo. ED Adams proceeded to review the information included in the agenda package, which included proposed draft language for a policy on Best Available Science. Following the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Steve Anderson, Diane Wagner, Kathy Dice, Jim Dax, and David Garmon.

The key points of discussion included:

- ED Adams clarified that it was legal counsel and staff’s recommendation to create a policy statement on Best Available Science. The development of a policy was not the specific ask of the Board when the agenda item was requested; this was the recommended solution to resolve the confusion about how the Watermaster will apply Best Available Science in its decision-making process. Staff’s intent was to present the draft policy for Board discussion and consideration of approval if it met the needs of the Board.
- The effectiveness of the current processes that inform Watermaster of newly available data and science through public comment and correspondence, the TAC, the Environmental Working Group, and agenda setting process.
- Director Smith requested additional language from the Watermaster guidance documents should be added to the Policy, including Section IV.G of the Judgment; and that the Policy should be reordered to state the main purpose at the start of the Policy.
- Alternate Director Crow made a motion to approve the Policy as presented, with the recommended changes by Director Smith. The motion was then seconded by Director Smith. However, following a request for guidance from Legal Counsel, the Board did not vote on the Motion. Specifically, Legal Counsel advised that due to the confusion of how the item was presented in the agenda compared to the staff memo the Watermaster should defer action on the Policy.
- The Board directed staff to bring a revised policy for consideration at the April 2024 Board meeting. Other suggestions for improvement of the next draft of the Policy included:
 - Format into a more formal Policy document
 - Include additional references to Judgment and Rules & Regulations to capture all instances of Best Available Science
 - Include definitions of Best Available Science within SGMA and State law

D. *Overview and Discussion of Grant-Funded Work to Address Abandoned Wells.* Andy Malone provided a summary of the memo included in the Agenda package and gave an overview of the process of addressing abandoned wells. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Jim Dax, David Garmon, and Tammy Baker.

The key points of discussion included:

- Well owners are not required to cooperate with the Watermaster's effort to address abandoned wells. In this case, Watermaster will provide resources on how to properly address abandoned wells based on State law.
- Abandoned wells are an issue of interest to the community and there have been efforts by the community to help Watermaster identify improperly abandoned wells in the Basin.
- Watermaster Staff has not performed a survey to identify all abandoned wells in the Basin.
- A summary of efforts taken by the County of San Diego to address abandoned wells reported to the DEHQ.
- The cost to abandon and/or convert a well are site-specific. Cost estimates will continue to be refined and will be shared with the public as part of outreach. Examples of costs from abandoned wells in the Basin have recently ranged from \$25,000 to \$45,000.
- Watermaster Staff is investigating the ability to use grant funding to abandon private wells and this may not be possible based on DWR guidelines on benefits to private property – thus Watermaster may focus efforts on conversion of abandoned wells to monitoring sites with cooperative owners.
- Existing wells have not been identified for all the areas of recommended improvement to the Groundwater Monitoring Program, such as within the Anza Borrego State Park. The first priority is to address areas with existing wells prior to considering construction of new wells.

No Board action was taken.

E. *Status Update on the Redetermination of the Sustainable Yield.* Mr. Malone provided a summary of the memo included in the Agenda package and described the process towards redetermining the Sustainable Yield. 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:

- Concern regarding the one-week period to review the interim deliverables, which were added to keep the Technical Advisory Committee (TAC) updated on the progress towards redetermining the Sustainable Yield.
- The one week review period is necessary to stay on schedule and the summary interim materials that will be sent to the TAC in advance of ad-hoc meetings will support achieving consensus on the Sustainable Yield recommendation at the conclusion of the work.

No Board action was taken.

V. Reports.

A. Legal Counsel Report. Discussion included:

- A court hearing will be held on March 21, 2024 to consider the motion to amend a Judgment to allow a Community Representative on the TAC. To date, no Parties have filed an opposition to the motion.
- Following the Court approval, a formal nomination letter and CV for Community Representative on the TAC will be included in the April agenda package.
- As discussed and directed at a prior meeting, the Community Representative that has been nominated by Director Jorgensen is allowed to participate in TAC activities, such as the upcoming Ad-Hoc TAC meeting, prior to the Board action to accept the formal nomination in April.

B. Technical Consultant Report. Mr. Malone reported on the following items included in the Agenda package (see [Board presentation slides](#)). Discussion included:

- The sand fence study is behind schedule and has been further delayed due to the difficulty in finding a subcontractor within the project budget.
- The schedule for performing the sand fence study assumed limited time to monitor the short-term effects of constructing the sand fences. The UCI research center is dedicated to supporting long-term monitoring of the sand fences utilizing student researchers.
- Leanne Crow will assume Jim Bennett's appointment to the subcommittee to review subcontractor proposals if he is not available.

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

- The fourth quarterly grant reimbursement request was submitted by BWD to DWR ahead of the deadline in February 2024.
- BWD staff is in regular communication with DWR regarding the status of review and payment on previous grant reimbursement requests.
- Status update on the WY 2024 meter accuracy testing.
- The April Board meeting has been rescheduled for April 18, 2024.

D. Chairperson's Report. NONE

VI. Approval of Agenda Items for April 18, 2024 Board Meeting. ED Adams reviewed the potential agenda items for the April Board meetings listed in the agenda package and the Board discussed.. As mentioned during public comment, the Board requested that the May meeting agenda include a presentation by UCI on the status of the GDE project. Following discussion, ED Adams updated the proposed Agenda for the April 18, 2024 meeting on the meeting screen, which included the following items:

- Consideration of Approval of Board Resolution Clarifying Carryover Transfers and Accounting
- Consideration of Approval of the May 1, 2024 TAC Meeting Agenda
- Q2 WY 2024 Budget status review
- WY 2025 Budget Scoping
- Policy on "Best Available Science"

- Status Update on the Redetermination of the Sustainable Yield
- Appointment of a public representative to the TAC (*Consent Calendar*)

Motion: Motioned by Vice Chair Bilyk seconded by Director Smith, to approve the April 18, 2024 agenda presented. *Motion carried unanimously by roll-call vote (5-0-0).*

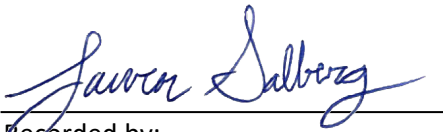
VII. **Board Member Comments.** Chair Duncan called for comments.

- Director Smith commented that:
 - T2 Palms has officially been approved by the Court to intervene as a party to the Judgment and will pay the past due balances associated with the acquired Baseline Pumping Allocation (BPA).
 - The Watermaster Board's job is to defend the Judgment and this is the perspective he is taking when commenting on agenda items, noting that when he sounds defensive it is not meant to be personal.

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 7:28 PM.



Recorded by:

Lauren Salberg, Staff Geologist, West Yost



Attest:

Shannon Smith, Secretary and Treasurer of the Board