

MINUTES
BORREGO SPRINGS WATERMASTER BOARD MEETING
Conducted Virtually via GoToMeeting
Thursday, September 12, 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
	Rich Pinel – Recreational Sector (alternate)
	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
	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
	Trey Driscoll, Intera, TAC Member representing BWD
	Jeff Miner

Please visit the [Watermaster's Website](#)¹ to access the Agenda Packet, recording, and presentation for the September 12, 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 were present.
- D. Approval of Agenda.

Vice Chair Bilyk requested to defer Agenda Item IV.C *Proposed 2025 Board Meeting Dates and Times* to the October 2024 Board meeting, which he recommended should occur after finalizing the schedule to Redetermine the Sustainable Yield.

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

Motion: Motioned by Vice Chair Bilyk, seconded by Director Pinel to approve the Agenda as presented, with the exception to defer agenda item IV.C *Proposed 2025 Board Meeting Dates and Times* to the October 2024 agenda. *Motion carried unanimously by voice vote (5-0-0).*

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 September 12, 2024 agenda package. There were no comments.

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. *Consideration of Approval of Contract Amendment and Statement of Work No. 7 for West Yost Services for WY 2025.* ED Adams provided a summary of information presented in the board 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 by the Board included:

- Chair Duncan voiced that he raised the concern to review the rates out of consideration of costs to Pumpers in the Basin.
- The process and administrative costs associated with waiting to approve an additional contract amendment once the final 2025 West Yost rates during the December 2024 Board Meeting would be minimal (less than an hour staff time).
- Director Jorgensen expressed that he is comfortable in accepting the proposed rates and that West Yost was selected based on a rigorous Request for Proposal (RFP) process in which quality of work and experience were the highest priority.
- Director Pinel expressed satisfaction with West Yost's work, but noted that it was difficult to approve a rate increase given the proposal to extend the deadline for the Redetermination of the Sustainable Yield.
- Director Bilyk requested that West Yost inform the Board when the final WY 2025 rates are set so they can assess if the final company-wide rates are less than the early rates set for Borrego Watermaster and revisit the contract rates at that time.

Motion: Motioned by Vice Chair Bilyk, seconded by Director Bennett, to approve Contract Amendment No. 10, with a plan to review the final West Yost rates in December 2024 and adjust as needed at that time. *Motion carried unanimously by roll-call vote (5-0-0).*

- B. *EWG Request to Serve as Community Partner to UCI Capstone Program.* Jim Markman and ED Adams provided an overview of the Board materials included in the agenda package. Prior to Board discussion, Chair Duncan asked for clarification on the appropriate term for this requested role of the EWG given that "partner" is not advised. Mr. Markman and ED Adams offered alternative terms such as "mentorship" or "advisory role". 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 and Tammy Baker.

Public questions and comments, including Board and staff response if any, included:

- Encouragement to approve this arrangement because of the direct benefits to the community and Pumpers, including offering more effective, and less costly, options to achieve fallowing objectives.

Additional points of discussion by the Board included:

- Discussion on the need for a formal relationship between the EWG and UCI in order to receive the benefits of the Capstone Program. Outcomes if the relationship is not formalized would include:
 - Continued monitoring of the sand fences by the students will occur even if the EWG is not in this role.
 - UCI students could still present the results of their work to the EWG during an EWG meeting scheduled for other purposes.
 - The EWG budget would be reserved for additional activities, such as review of the Groundwater Dependent Ecosystems (GDE) study that will be complete in March 2025.
- ED Adams clarified that approval of this consideration will include utilizing the available Ad-Hoc EWG budget after the grant period (*i.e.* post March 2025) to support additional engagement via EWG meetings.

Motion: Motioned by Director Jorgensen, seconded by Director Bennett, to approve the EWG request to serve as Community Mentor to the UCI Capstone Program and utilizing the available budget after the grant period to support additional engagements as needed. *Motion carried by majority in a roll-call vote (4-1-0).* Directors Duncan, Jorgensen, Bennett, and Pinel voted yes; Vice Chair Bilyk voted no.

C. *Proposed 2025 Board Meeting Dates and Times.* This Agenda Item was deferred to the October 2024 Board meeting.

D. *Status Update on the Redetermination of the Sustainable Yield.* Andy Malone provided an overview of the information included in the agenda package and described the ask by West Yost to extend the due date of the work until March 2025 to allow more time for review and feedback on the work. Additionally, ED Adams described additional rationale for the schedule extension request and presented timeline pathways to complete the work to Redetermine the Sustainable Yield – one option for completion in March 2025 and one for December 2024. At the conclusion of the presentation, Mr. Markman spoke to the process and cost for extending the deadline to Redetermine the Sustainable Yield, which he stated would be less than \$5,000.

Following the overview, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Cathy Milkey, Trey Driscoll, and Steve Anderson.

Public questions and comments, including Board and staff response if any, included:

- It is unclear why an extension is being requested because it appears the TAC has consensus on the *Preliminary* Sustainable Yield. Mr. Malone re-iterated that Task 5 to test the sustainability of the *Preliminary* Sustainable Yield has yet to be completed and is a part of the process.
- Director Bennett requested that Mr. Driscoll, a TAC member representing the BWD, provide his professional opinion. Mr. Driscoll explained:
 - There is inherent uncertainty associated with using a model to estimate the Sustainable Yield.
 - The current preliminary estimate of the Sustainable Yield at 7,952 acre-feet per year (afy) is not a unique solution and regular changes to the Sustainable Yield are required in the future. However, based on the improvements made to the model and collecting additional data (such as metered pumping data), we have improved the confidence in using the model to redetermine the Sustainable Yield.
 - Sustainable Management Criteria in the GMP, especially in the South Management Area, need to be revised. Therefore, pumping under the redetermined Sustainable Yield can be compared to Minimum Thresholds in the GMP in the future when these thresholds have been reassessed. This does not need to be completed now.
 - When asked by Director Duncan if he believes that the January 1, 2025 deadline can be met, Mr. Driscoll responded that he is comfortable with moving forward with an estimate of the Sustainable Yield without performing Task 5, with the acknowledgement that the value may need to adapt in the future based on improvements made to the BVHM.
- Mr. Anderson, Legal Counsel for the BWD, stated that changing the date of the redetermination of the Sustainable Yield in the Judgment would also require changing the due date of the required assessment of Carryover. The process of amending the Judgment is significant and includes activities like notifying all Parties to the Judgment.

Additional points of discussion by the Board included:

- The Watermaster faced several challenges in this process, such as a condensed timeframe due to delays in the start of the grant funding and the absence of DWR's review and comment on the GMP/Judgment.
- An alternative option for meeting the January 1, 2025 deadline was proposed, which included approving a Sustainable Yield based on the work performed through Task 4, with the caveat that additional work is required to determine if Undesirable Results are caused by the redetermined Sustainable Yield. This work would proceed in parallel to finalizing the Sustainable Yield by January 1, 2025.
- A recommendation to simplify the assessment of Carryover rules, by simply analyzing how much over the Sustainable Yield pumpers could potentially operate, based on our best understanding of their plans and recent purchases of Carryover.
- Concern in folding in elements of the 5-year assessment of the GMP with the process to redetermine the Sustainable Yield, due to schedule constraints and lack of communication from DWR.

- Agreement that work on Task 5 and the 5-year assessment of the GMP continue using grant funding through March 2025 and that any work performed after would be the result of DWR's delayed response.
- Director Jorgensen expressed surprise in the increased estimate of the Sustainable Yield, but relayed that the TAC representative for the Borrego Springs Community felt confident in the work performed to arrive at the new estimate.
- Director Bilyk thanked Director Bennett and Trey Driscoll for their insight as TAC members and alternative solutions to complete the Redetermine the Sustainable Yield by January 1, 2025.
- Acknowledgement that the model used to redetermine the Sustainable Yield has improved since the Sustainable Yield was last set in 2020, but that there are economic impacts to pumpers associated with making a redetermination of the Sustainable Yield and having to change it again before the next 5-year assessment.
- Director Bennett made a motion proposing an alternative pathway to meet the January 1, 2025 deadline by: i) redetermining the Sustainable Yield based on work completed to-date, therefore forgoing work under Task 5 of the scope of work and acknowledging the risks associated with the Sustainable Yield, and ii) assessing Carryover Rules using a simplified approach.
- Mr. Markman suggested modifications to simplify Director Bennett's motion, which is to i) not approve a schedule extension (*i.e.* meet the January 1, 2025 deadlines), and ii) complete the redetermination of the Sustainable Yield and assessment of Carryover rules by January 1, 2025 by forgoing Task 5 of the scope of work to meet these deadlines.
- ED Adams suggested that the motion should be clarified to specify that work under Task 5 can still proceed in parallel to meeting the January 1st deadlines, but will not be used to redetermine the Sustainable Yield. Task 5 is not removed from the scope of work, but instead will be performed to support the update of the GMP and should be completed by March 2025 to maximize the use of SGM grant funding.

Motion: Motioned by Director Bennett seconded by Vice Chair Bilyk, to i) adhere to the January 1, 2025 deadline to Redetermine the Sustainable Yield based on results of work through Task 4 of the scope of work, ii) adhere to the January 1, 2025 deadline to assess Carryover Rules using a simplified analysis of Carryover, and iii) proceed with completing Task 5 of the scope of work separately to support the GMP update and complete Task 5 by March 2025 to utilize SGM grant funds. *Motion carried unanimously by roll-call vote (5-0-0).*

V. Reports.

- A. Legal Counsel Report. Mr. Markman reported on the latest Status Conference with the Judge. The next is scheduled for February 2025.
- B. Technical Consultant Report. Mr. Malone provided a status update on the Biological Restoration of Fallowed Lands project, Conversion of Abandoned Wells project, and 5-year GMP Assessment Report (see slides 38 through 43 of the [Board presentation slides](#)). Public comment was made by Jim Dax.

Public questions and comments, including Board and staff response if any, included:

- Can the Sustainable Yield be redetermined prior to the next 5-year deadline (*i.e.*, prior to January 1, 2030)?
 - Mr. Markman responded that yes, the Judgment requires that, at minimum, the Sustainable Yield be redetermined every 5 years but does not preclude the Sustainable Yield from being redetermined prior to the deadline.

Board questions and comments, included:

- The owner of the Bing Crosby well has been contacted and a verbal agreement to assess the well for maintenance/conversion has been provided, thanks to Director Jorgensen's referral.
- West Yost is coordinating with BWD to determine on the process to rehabilitate the Viking Ranch well.

C. Executive Director Reports. ED Adams reported on the items listed in the agenda package memo (see slides 44 through 46 of the [Board presentation slides](#)). There were no additional topics discussed. There were no Board or public comments.

D. Chairperson's Report. NONE

VI. Approval of Agenda Items for October 10, 2024 Board Meeting. ED Adams reviewed the potential agenda items for the next Board meetings as listed in the agenda package and the Board discussed additional items. Based on the discussion, ED Adams updated the proposed Agenda for the October 10, 2024 meeting on the meeting screen, noting it now includes the following items:

- Board Schedule for WY 2025
- Election of Board Officers for WY 2025
- Process and Schedule to complete Water Year 2024 Annual Report
- Approval of Audit Engagement Letter
- Consideration of Approval of Next TAC and EWG Meeting Agendas
- Status Update to Redetermine the Sustainable Yield
- Status of Water Year 2024 Water Rights Accounting
- Discussion of DWR review of Judgment/GMP (if applicable)
- WY 2024 Final Budget Status Report
- Staff Reports:
 - Biological Restoration of Fallowed Lands Project
 - Conversion of Inactive/Abandoned Wells
 - 5-Year assessment of the GMP
 - Prop 68 Grant Status Report

Motion: Motioned by Vice Chair Bilyk seconded by Director Jorgensen, to approve the October 10, 2024 agenda as presented on the monitor. *Motion carried unanimously by roll-call vote (5-0-0).*

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

- Directors Bennett and Jorgensen thanked the Watermaster Board and Staff.

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 7:08 PM.



Recorded by:

Lauren Salberg, Staff Geologist, West Yost



Attest:

Dave Duncan, Chairperson of the Board