

MINUTES
BORREGO SPRINGS WATERMASTER BOARD MEETING
Conducted Virtually via GoToMeeting
Thursday, October 10, 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)
	Jim Dax – Community Representative (alternate)
	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
	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

Please visit the [Watermaster's Website](#)¹ to access the Agenda Packet, recording, and presentation for the October 10, 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.

Motion: Motioned by Vice Chair Bilyk, seconded by Director Dax 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 2024 are Directors Duncan (Chair), Bilyk (Vice Chair), and Smith (Secretary, Treasurer).

Motion: Motioned by Director Bennett, seconded by Director Dax to elect the same slate of Board Officers in WY 2025 (Chair Dave Duncan, Vice Chair Tyler Bilyk, Secretary Shannon Smith, and Treasurer Shannon Smith). *Motion carried unanimously by voice vote (5-0-0).*

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

III. Public Correspondence

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

IV. Consent Calendar.

Chair Duncan called for any discussion on the Consent Calendar items included in the October 10, 2024 agenda package.

- Director Bennett noted that the budget for Task 3 of the Biological Restoration of Fallowed Lands project is over-budget by \$60,000, but Land IQ has assured that they can complete the work for the entire scope within budget by completing work on other tasks below-budget.

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

V. Closed Session.

The Board of Directors entered a Closed Session at 4:38 PM. The public meeting was reconvened at 4:53 PM. Mr. Markman reported that a federal lawsuit has been filed naming private parties, Watermaster officers, and the Executive Director. During the Closed Session, Mr. Markman requested and received Board approval to take initial steps to represent the Executive Director if the legal action moves forward.

VI. Items for Board Consideration and Possible Action

- A. *Consideration of Approval of WY 2025 Board Meeting Dates and Times.* ED Adams presented the schedule options for Watermaster Board meetings in WY 2025. 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:

- Preference for an earlier meeting start time.
- Preference for holding meetings on the third Wednesday of the month due to schedule conflicts, presented as Option #2 in the October agenda package.

Motion: Motioned by Director Bennett, seconded by Director Dax, to approve the WY 2025 Board meeting dates, which will be scheduled for the third Wednesday of the month starting in January 2025. *Motion carried unanimously by roll-call vote (5-0-0).*

- B. *Consideration of Approval to Engage with C.J. Brown & Company, CPAs to Perform the WY 2024 Annual Financial Audit.* ED Adams described the proposal to perform the WY 2024 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 or Board discussion.

Motion: Motioned by Vice Chair Bilyk, seconded by Director Dax, to approve the \$8,560 proposal by C.J. Brown & Company, CPAs to perform the WY 2024 financial audit. *Motion carried unanimously by roll-call vote (5-0-0).*

C. *Consideration of Approval of the Agenda for the Next Technical Advisory Committee and Environmental Working Group Meetings.* Andy Malone presented the proposed agendas for the upcoming TAC and EWG meetings scheduled for November 2024. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Tammy Baker.

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

- The upcoming EWG meeting will be open to the public, including the field visits to the sand fences. Members of the public will need to arrange transportation to the sites, which can be accessed by a regular vehicle.²

The key points of discussion by the Board included:

- The method used to calculate the change in storage from spring 2023 to spring 2024 has not changed and the analysis will be performed using the method used and approved by the TAC in prior years.

Motion: Motioned by Vice Chair Bilyk, seconded by Director Dax, to approve the TAC and EWG meeting agendas included in the Board package. *Motion carried unanimously by roll-call vote (5-0-0).*

D. *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 Diane Johnson.

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

- Does the scope and budget for work to be performed over the next four years have to be set now?
 - Yes, the Judgment requires that a scope of work and budget to Redetermine the 2030 Sustainable Yield be approved by the Watermaster Board by January 1, 2025. However, there is flexibility to revise the scope of work and budget as work is performed during WY 2026-29 and new findings/recommendations are identified, and at the discretion of the Board.

The key points of discussion by the Board included:

- TAC comments on the draft Task 4 TM will be discussed at the upcoming Ad-Hoc TAC meeting on October 16, 2024. Additionally, a formal response to comment document will be prepared and included as an appendix in the final Task 4 TM.
- The analysis of Carryover rules is expected to first be presented to the Board during the December 2024 Board meeting.

² Following the October 10, 2024 Board meeting, a legal representative for one of the sand fence property owners requested that permission be received from the land owner prior to entering private property.

- Two Board meetings are scheduled for December 2024; a Regular and a Special Board meeting. The Board can consider approval of the redetermination of the 2025 Sustainable Yield at either December meeting.

No Board action was taken.

E. Process and Schedule to Complete the Water Year 2024 Annual Report. ED Adams provided an overview of the process and schedule for completing the WY 2024 Annual Report. At the conclusion of the presentation, Chair Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Tammy Baker.

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

- “Non-De Minimis pumpers” are pumpers with BPA water rights who do not use groundwater for agricultural, municipal, or recreational purposes.

The key points of discussion by the Board included:

- The new meeting dates, which will be held on the third Wednesday of the month, will go into effect in January 2025. The dates of Watermaster Board meeting on slide 27 of the Board presentation will follow the schedule approved under Item VI.A of this agenda.

No Board action was taken.

F. Consideration of Approval of Easement Agreement or Assignment for the Viking Well. Mr. Malone described the options provided to Watermaster by the Borrego Water District to obtain access to the Viking Well to perform minor modifications and perform semi-annual monitoring of groundwater-levels. 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, Cathy Milkey, Tammy Baker, and Diane Johnson.

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

- The main cost associated with owning the Viking Well is the eventual abandonment of the well. Board members shared estimated costs for well abandonment based on their experiences. Costs associated with the improvement of the well were covered by USG and remaining tasks will be covered by the DWR grant.
- Steve Anderson, Legal Counsel for BWD, explained the following:
 - The Viking Well is located on a parcel owned by United State Gypsum (USG). The land was sold to USG by BWD. However, in the sale, BWD retained ownership of the Viking Well and an easement to the well. When BWD sold the property to USG, they included provisions that would allow for the transfer of ownership of the well and its easement. This provision was added in the consideration that the well could be used as a monitoring well for the Watermaster’s Groundwater Monitoring Program.
 - The main cost associated with accessing the well via an Entry Agreement is the cost of liability insurance, which BWD is asking Watermaster to fund.
- The report on the well’s condition did not indicate that machine oil was found in the well.

- The Viking Well does not benefit BWD ratepayers. Because it's a monitoring well, it is a benefit to the Watermaster.
- It's unclear if the type of insurance required for the Entry Agreement is different than the insurance currently held by the Watermaster for other Entry Agreements for wells in the Groundwater Monitoring Program as BWD has not provided Watermaster with specific details on the costs.

The key points of discussion by the Board included:

- The possibility of simply using Watermaster's standard Entry Permit and process for adding a well to the monitoring network, which is what has been done for all other monitoring sites offered up by cooperating Parties.
- The implications of owning vs. accessing the Viking well via Entry Agreement.
- The risk of other private well owners asking for the Watermaster taking on additional cost responsibilities as the BWD is requesting.
- The ability/authority for the Watermaster to "own" a well. Owning the well should not be a consideration and taken off the table.
- Request for more information from BWD on what costs the Watermaster is being asked to fund through an Entry Agreement.

Motion: Motioned by Director Bennett, seconded by Director Pinel, to negotiate terms of an Entry Agreement with the BWD for the Viking Well and present the associated costs to the Watermaster Board during the November 2024 Board meeting. *Motion carried by majority in a roll-call vote (3-2-0).* Vice Chair Bilyk and Directors Bennett and Pinel voted yes; Chair Duncan and Director Dax voted no.

VII. Reports.

- A. Legal Counsel Report. NONE
- B. Technical Consultant Report. Mr. Malone reported on the items listed in the agenda package memo (see slides 35 through 36 of the [Board presentation slides](#)). There were no additional topics discussed.

Board questions and comments included:

- A request to present the number of wells to the monitoring network at a future meeting.

- C. Executive Director Reports. ED Adams reported on the items listed in the agenda package memo (see slides 37 through 47 of the [Board presentation slides](#)). There were no additional topics discussed.

Board questions and comments included:

- Watermaster cannot dictate how new Parties that obtain BPA through transfers use their water rights, beyond the requirements of the Judgment.
- Parties that have Overproduced in WY 2024 are aware of their status and have reported that they expect to resolve any Overproduction prior to the end of the water year.

- Vice Chair Bilyk thanked Watermaster staff for the written Technical Consultant and Executive Director memos.

D. Chairperson's Report. NONE

VIII. Approval of Agenda Items for November 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 November 7, 2024 Board meeting agenda, in addition to items listed in the Agenda package.

- ED Adams updated the proposed Agenda for the November 2024 meeting on the meeting screen based on discussion, noting it now includes the following items:
 - Final Water Year 2024 Water Rights Accounting
 - Final WY 2024 Budget Status and Consideration of Approval of Carry-forward budget to WY 2025
 - Consideration of Approval of Next TAC Meeting Agenda
 - Review Draft Recommendations on the 2025 Redetermination of Sustainable Yield
 - Discussion of the Scope and Budget for WYs 2026 through 2029 to complete the 2030 Redetermination of Sustainable Yield
 - Entry Agreement for the Viking Well

Motion: Motioned by Vice Chair Bilyk seconded by Director Bennett, to approve the November 7, 2024 agenda presented on the monitor. *Motion carried unanimously by roll-call vote (5-0-0).*

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

- Director Pinel and Chair Duncan thanked Watermaster Staff the work on the Sustainable Yield to adjust the approach so it is completed by January 1, 2025.

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

XI. Adjournment

- Chair Duncan adjourned the meeting at 6:38 PM.



Recorded by:

Lauren Salberg, Staff Geologist, West Yost



Attest:

Dave Duncan, Chair of the Board