

**MINUTES**  
**BORREGO SPRINGS WATERMASTER BOARD MEETING**  
**Conducted Virtually via GoToMeeting**  
**Wednesday, November 17, 2021, 4:30 p.m.**

**I. Opening Procedures**

- A. Chairman Duncan called the meeting to order at 4:30 PM
- B. Chairman Duncan led the meeting participants in the Pledge of Allegiance.
- C. Samantha Adams (Executive Director) called roll and confirmed that all members of the Board were present. The following individuals were present at the meeting:

<b>Directors Present</b>	Chairman Dave Duncan – Borrego Water District (BWD)
	Vice Chairman Shannon Smith – Recreational Sector
	Jim Bennett – County of San Diego
	Mike Seley – Agricultural Sector (arrived at 4:34 pm)
	Mark Jorgensen – Community Representative
<b>Watermaster Staff Present</b>	James M. Markman, Legal Counsel
	Samantha Adams, Executive Director, West Yost
	Andrew Malone, Lead Technical Consultant, West Yost
	Lauren Sather, Staff Scientist, West Yost
<b>Others Present</b>	Anita Regmi, DWR
	Cathy Milkey, T2 Borrego LLC
	Diane Johnson (BWD Director)
	Dr. Michael Wells, Environmental Working Group Member
	John Peterson, Environmental Working Group Member
	Kathy Dice, BWD Board Member
	Leonardo Urrego-Vallowe, WBE, representing AAWARE
	Martha Deichler, Board Alternate – Community Representative
	Rich Pinel, Board Alternate – Recreational Sector
	Steve Anderson, BB&K, representing BWD
	Tammy Baker, BWD Board Member
	Trey Driscoll, Dudek, representing BWD
	Leanne Crow, Board Alternate – County of San Diego
	Jim Dax
	Bill Berkley
	Boyd Hill, Jackson Tidus, representing AAWARE
	Donna Smith
	Rebecca Falk

- D. Approval of Agenda.

**Motion:** Motioned by Vice Chairman Smith, seconded by Director Jorgensen to approve the Agenda. *Motion carried unanimously by four votes present (4-0-0). Director Seley was absent from the vote.*

**II. Public Correspondence**

- A. Correspondence Received. NONE
- B. Public Comments. Chairman Duncan called for public comments. The following public comment were made:
  - John Peterson commented on the topic of compliance with the Brown Act.
  - Diane Johnson commented on the topic of taking action on protecting water quality in the basin.

**III. Consent Calendar.** Chairman Duncan called for any discussion on the Consent Calendar items included in the November 17, 2021 agenda package. Vice Chairman Smith noted that the Financial Reports reflect the full reimbursement payment to BWD has not been made. This is a reflection of outstanding payments from the Parties. An aging report will be sent to BWD for review.

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

**IV. Items for Board Consideration and Possible Action**

- A. *Summary of Water Year 2021 Water Rights Accounting (Adams).* ED Adams summarized the memo in the agenda package. At the conclusion of the presentation, Chairman Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Tammy Baker. The key points of discussion included:
  - During Water Year 2021, one party permanently transferred all its water rights to another party. Therefore, at the end of Water Year 2021, there were only 43 parties with water rights.
  - Parties who have produced in excess of their annual allowable pumping will be contacted on the options for remedying the over-production.
  - Vice Chairman Smith thanked staff for the timely completion of the first year-end water rights accounting process.

No Board action was taken.

- B. *Grant Funding Opportunity for SGMA Implementation (MALONE).* Andy Malone summarized the memo in the agenda package. At the conclusion of the presentation, Chairman Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by Cathy Milkey and Anita Regmi. The key points of discussion included:
  - It's important that Watermaster, which has representation from each entity included in the Alternative, evaluate potential projects to be included in the grant application. The Environmental Working Group (EWG) and the Technical Advisory Committee (TAC) should provide input on projects.
  - Watermaster should collaborate with BWD who is already preparing comments to DWR. It would be ideal if there was a single comment letter from BWD and Watermaster.
  - There is sufficient money in the consulting services budget to make sure the process moves forward before the next meeting.

- If BWD was the grantee, the grant funds would still be available for use by Watermaster for basin management action.
- Possible Comments to DWR
  - According to the current draft guidelines, the Borrego Springs Subbasin is not an eligible basin. Anita Regmi from DWR commented that this was not the intent of DWR. Borrego is a unique situation and the Watermaster needs to work with DWR to make sure the language in the draft guidelines is modified to include Borrego Springs Subbasin as an eligible basin.
  - According to the current draft guidelines, Watermaster is not eligible as a grantee. Watermaster needs to recommend that DWR modify the language in the draft guidelines is to Watermaster as an eligible grantee.
  - According to the current draft guidelines, the start date for projects that are eligible for grant funding will be in the Summer of 2022. Watermaster should suggest to DWR that the start date should be earlier.
  - According to the current draft guidelines, the grant application is due January 31,2021. Watermaster should suggest to DWR that they delay the due date by at least a month.
  - According to the current draft guidelines, eligible projects are only those that are included within the adopted alternative. Watermaster should suggest to DWR to modify the language to include projects that are consistent with the sustainability goals of SGMA.

Following the discussion, the Board directed Staff to:

- Prepare and submit comments to the DWR on the draft Guidelines and Proposal Solicitation Package. Include Jim Markman, Jim Bennett, and Geoff Poole in the preparation of comments.
- Develop a cost estimate for Watermaster Staff to prepare a grant application and provide the Board with options to fund the preparation and submittal of the grant application.

No Board action was taken.

C. *Consideration of Approval to Establish a Processes to Approve or Deny Applications for New De Minimis Pumping and New Wells or Replacement Wells in the Borrego Springs Subbasin (MALONE).* Andy Malone summarized the memo in the agenda package. At the conclusion of the presentation, Chairman Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by John Peterson, Steve Anderson, and Kathy Dice. The key points of discussion included:

- Director Bennett has several small comments on the forms and one significant comment. It was determined to table the item to the December meeting.
- Director Bennett stated that waiting another month to approve the process would not significantly hold up the one well application in process at this time.
- Concern was raised regarding the lack of defined objectives for calculating undesirable impacts in the application. Jim Markman summarized some of the undesirable impacts that

will be considered during the process, but noted they do not need to be stated in the application.

- It was confirmed that the process will require new de minimis pumpers to be metered.
- Steve Anderson noted that there is a restriction on drilling wells on certain properties due to a BWD agreement. Mr. Andersen and Mr. Markman will connect to discuss and ensure that through the process wells cannot be drilled on these properties.

Following the discussion, the Board directed staff to work with Director Bennett regarding his suggested changes and return this item for approval at the next board meeting. No Board action was taken.

*D. Recent Observation of a Protruding Wellhead (MALONE).* Andy Malone summarized the memo in the agenda package. At the conclusion of the presentation, Chairman Duncan opened the floor to public comment, followed by Board discussion. Public comment was made by John Peterson and Trey Driscoll. The key points of discussion included:

- John Peterson constructed a monitoring device at the site to measure land motion at the protruding wellhead.
- Trey Driscoll stated that in 2017, Dudek performed a site inspection and their hypothesis at the time was that the displacement at the site was due to wind erosion. He recommends continued monitoring of the displacement using the methods in the GMP.
- Andy Malone stated that reducing overdraft does eventually lead to a reduction in land subsidence, however, this can be a delayed process that takes decades. Therefore, you can have subsidence that still occurs even with increasing water levels.

No Board action was taken.

## **V. Reports.**

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

- The request for Recordation of the Judgment has been filed in Court and a hearing will be held on December 9, 2021 at 2:30pm. No comments have been received on the filing.
- A motion will be filed with the Court in December for those Parties with unpaid assessments.

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

- Compliance with metering requirements:
  - Summarized the current status of compliance with metering for the 8 pumpers whose Water Year 2021 pumping was estimated.
  - Staff will provide pumpers who are not in compliance with a final letter demanding time-certain compliance.
  - Chairman Duncan requested monthly updates on the status of compliance.
- Compliance with fallowing standards

- An opinion will be requested from Counsel Markman on how to address the Minimum Falling Standards for those BPA parties whose BPA was converted from BWD Water Credits but do not have ownership of the parcels that do not meet the standards.

C. Technical Consultant Report. Andy Malone reported on the following items.

- The TAC met on November 9<sup>th</sup>, 2021. The discussion during the meeting focused on methods to calculate storage change for annual reporting to DWR. Staff is now drafting a technical memorandum which will be presented at a future board meeting to summarize the methods that will be used based on the discussion.
- The Water Year 2022 EWG scope of work.

D. Chairperson's Report. Chairman Duncan reported that he did a visual inspection of properties surrounding the BWD well discussed in Item IVD and observed no evidence of land subsidence.

**VI. Board Member Comments.** Chairman Duncan called for comments. The following comments were made:

- Director Seley would like to discuss project ideas for the SGMA implementation grant funding with Staff.
- Director Smith reported that the meeting between BWD and local realtors is scheduled for December.
- Director Jorgeson asked if Board members would be willing to attend a community town hall meeting to talk about future plans (Employment of future community members, etc.). Due to the Brown Act, it might be better to have a special Board meeting focusing on community questions.

**VII. Next Meetings of the Borrego Springs Watermaster.** The next meetings are:

- A. Regular Board Meeting – Thursday, December 9, 2021 at 4:30 pm.
- B. Regular Board Meeting – Thursday, January 13, 2021 at 4:30 pm.

**VIII. Adjournment**

- A. Chairman Duncan adjourned the meeting at 6:40 PM.



Recorded by:

Lauren Sather, West Yost Staff



Attest:

Shannon Smith, Vice Chairperson, Secretary,  
and Treasurer of the Board