



Borrego Springs Watermaster Board Meeting

June 13, 2022

I. Opening Procedures

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Agenda



II. Public Correspondence

II.A – BWD Letter to Watermaster Staff re: Annual Report

II.B – Public Comment

Instructions for Public Comment

The public may address the Board on items within the Watermaster's Jurisdiction that are included or not included on the meeting agenda.

To address the Board on items that are not included on the meeting agenda, the public may request to speak during **Agenda Item II – Public Correspondence**. Comments may be limited to three minutes per speaker.

To address the Board on items that are included on the meeting agenda, the Board Chairperson will call for public comments immediately following the agenda item's staff report presentation and prior to Board discussion.

III. Consent Calendar

- A. Approval of Minutes: Regular Meeting – April 4, 2022
- B. Approval of Minutes: Regular Meeting – May 12, 2022
- C. Approval of May 2022 Financial Report
- D. Receive and file March 2022 Watermaster Staff invoices (West Yost and RWG)
- E. Receive and file April 2022 Watermaster Staff invoices (RWG)
- F. Receive and file Permanent Transfer of BPA: BWD to Kent Smith

IV.A – Consideration of Approval of Resolution 2022-01 Adopting a Code of Conduct to Govern Watermaster Activities Required to Manage and Sustain Borrego Springs Subbasin Resources

Recommended Actions:

Approve Resolution 2022-01

Fiscal Impact:

None

IV.B – Overproduction Penalty Assessment Rate

Recommended Actions:

Discuss and provide guidance to staff on setting an Overproduction Penalty Assessment rate as part of the WY 2023 Budget which will be presented for approval by the Board in July 2023.

Fiscal Impact:

The Overproduction Penalty Assessment rate will affect the total revenues collected by the Watermaster, if any Party engages in Overproduction as defined in the Judgment.

IV.B – Overproduction Penalty Assessment Rate

Overproduction Penalty Assessment

- During the first three Water Years (2020-2021 through 2022-2023), no Party will be subject to an immediate Overproduction Penalty Assessment so long as such Party's total cumulative Overproduction in those Water Years does not exceed 20 percent of the Party's total cumulative Annual Allocation for those Water Years ("Max Overproduction Limit").
- Any Party that engages in Overproduction in any of Water Years 1-3 that does not exceed the Max Overproduction Limit ... shall cover the cumulative quantity of its Overproduction occurring in Water Years 1-3 by the end of Water Year 5 (2024-2025) through either Carryover, reduced production below authorized Annual Allocation in Water Years 4 (2023-2024) and 5 (2024-2025), or through Lease or Permanent Transfer.
- If the Party has not covered its Overproduction from Water Years 1-3 by the end of Water Year 5 (September 30, 2025), an Overproduction Penalty Assessment will be assessed.

IV.B – Overproduction Penalty Assessment Rate

Sample Calculation of the Cumulative Overproduction Limit for Water Years 2021 through 2023 for a Party with 100 acre feet (af) of BPA Rights			
Water Year	Annual Allocation		Overproduction Limit (20% of Annual Allocation)
	% of BPA	af	af
WY 2021	95%	95	19
WY 2022	90%	90	18
WY 2023	85%	85	17
3-Year Cumulative		270	54

In the first three years of operation an Overproduction Penalty Assessment will not be immediately incurred, so long as the cumulative Overproduction over this three-year period does not exceed 54 af

If at anytime during the first three years, the total overproduction exceeds 54 af, an Overproduction Penalty Assessment will be issued

IV.B – Overproduction Penalty Assessment Rate

- Total Overproduction across all Parties in WY 2021 = 167.43 af
 - Total Overproduction by Parties with BPA rights was 144.77 af.
 - Only one Party pumped more than its cumulative Maximum Overproduction Limit for WYs 2021 through 2023 during WY 2021: Gamini D. Weerasekera.
 - The excess over production that needs to be cured by September 30, 2022 is 8.02 af.
 - Overproduction by Parties with other rights (ABDSP and BSUSD) was 22.66 af.
 - All Overproduction was by BSUSD, and it was in excess of its Maximum Overproduction Limit for WYs 2021 through 2023.
 - The excess over production that needs to be cured by September 30, 2022 is 10.78 af.

IV.B – Overproduction Penalty Assessment Rate

- The two parties who produced in excess of their cumulative Maximum Overproduction Limits during WY 2021 have until September 30, 2022 to remedy the excess Overproduction or they will be subject to an Overproduction Penalty Assessment.
- Pursuant to Section III.G.4 of the Judgment, the Watermaster must set the Overproduction Penalty Assessment at *“no less than \$500 per acre-foot”*.

IV.B – Overproduction Penalty Assessment Rate

- Next Steps
 - Staff will notify the parties who have the potential to incur an Overproduction Penalty Assessment of:
 - the assessment rate,
 - the potential total cost of the Overproduction Penalty Assessment, and
 - provide guidance/resources on how to cure the excess Overproduction by September 30, 2022.
 - Staff will include the Overproduction Penalty Assessment Rate in the WY 2023 Budget package for formal approval at the July Regular Board meeting.

IV.C – Review of 2nd Draft WY 2023 Budget

Recommended Actions:

Discuss and provide input to staff on the draft Water Year 2023 budget.

Fiscal Impact:

TBD to when final budget is presented in July 2022

IV.C – Review of 2nd Draft WY 2023 Budget

- Summary of Comments on 1st Draft of WY 2023 Budget
 - Working Capital Required to Cover Initial Grant Period
 - Provide calculation of the working capital investment
 - Show sensitivity of working capital investment for 6-month and 9-month delay in reimbursement payments
 - Pumping Assessment and Year-End Cash Reserve
 - Express the reserve as the number of months of expenditures the reserve will cover
 - Provide the pumping assessment required to maintain the year-end reserve at or near the reserve goal of 9 months operating expenditures
 - Expenditures
 - To the extent possible, defer spending on grant work that would not otherwise be performed to later years within the grant funding period, if work can still be completed timely

IV.C – Review of 2nd Draft WY 2023 Budget

- Summary 2nd Draft WY 2023 Budget
 - Expenditures largely remain the same as 1st draft, with a few minor adjustments
 - Draft 1 assumed \$1,212,571
 - Draft 2 proposes \$1,057,490 – the main shift was for grant funded spending on well abandonment and well conversions to monitoring wells
 - Includes requested sensitivity analyses of working capital, pumping assessments, and cash reserves
 - Working capital required to cover initial grant period shown in Tables 1a and 1b in June 9, 2022 Board Memo (discussed on next slides)
 - Pumping assessment and year-end cash reserve analysis is shown in Table 2 in June 9, 2022 Board Memo (discussed on next slides)
 - Four scenarios (1a, 1b, 2a, 2b) are presented in detail as attachment to Board memo to show flow of assessments, expenditures, and revenues. Expenditures are the same in all scenarios.

IV.C – Review of 2nd Draft WY 2023 Budget

Grant Funds	WY 2022	WY 2023	WY 2024	WY 2025	WY 2026	Total
Requested	\$248,779	\$702,615	\$973,589	\$813,607	\$0	\$2,738,590
Retained	\$24,878	\$70,262	\$97,359	\$81,361	\$0	\$273,859
Reimbursed	\$0	\$547,430	\$752,827	\$811,855	\$626,479	\$2,738,590
Working Capital Investment (Requested - Retained if >\$0)	\$248,779	\$155,186	\$220,762	\$1,752	\$0	\$626,479

Note: The working capital investment includes spending on activities Watermaster would have done even without the grant funding.

Grant Funds	WY 2022	WY 2023	WY 2024	WY 2025	WY 2026	Total
Requested	\$248,779	\$702,615	\$973,589	\$813,607	\$0	\$2,738,590
Retained	\$24,878	\$70,262	\$97,359	\$81,361	\$0	\$273,859
Reimbursed	\$0	\$422,088	\$665,133	\$914,157	\$737,212	\$2,738,590
Working Capital Investment (Requested - Retained if >\$0)	\$248,779	\$280,527	\$308,456	\$0	\$0	\$837,763

Note: The working capital investment includes spending on activities Watermaster would have done even without the grant funding.

IV.C – Review of 2nd Draft WY 2023 Budget

Table 2 Comparison of Pumping Assessments Required to Maintain Target Year-End Cash Reserve Balances under Various DWR Reimbursement scheduled Defined for Budget Scenarios 1a, 1b, 2a, and 2b <i>(based on the 5-year average monthly expenditure projected for WY 2023 to WY 2027)</i>						
Scenarios	WY 2022	WY 2023	WY 2024	WY 2025	WY 2026	WY 2027
<i>Scenario 1a - DWR Reimburses within 6 months and Maintain Reserve of 9 months expenditures</i>						
Pumping Assessment	\$458,000	\$858,000	\$565,000	\$333,000	\$256,000	\$256,000
Year-End Reserves	\$348,387	\$701,933	\$702,361	\$702,629	\$1,016,663	\$702,693
<i>Scenario 1b- DWR Reimburses within 6 months and Maintain Reserve of 7 months expenditures</i>						
Pumping Assessment	\$458,000	\$702,000	\$565,000	\$333,000	\$255,000	\$255,000
Year-End Reserves	\$348,387	\$545,933	\$546,361	\$546,629	\$859,663	\$544,693

IV.C – Review of 2nd Draft WY 2023 Budget

Table 2 Comparison of Pumping Assessments Required to Maintain Target Year-End Cash Reserve Balances under Various DWR Reimbursement scheduled Defined for Budget Scenarios 1a, 1b, 2a, and 2b <i>(based on the 5-year average monthly expenditure projected for WY 2023 to WY 2027)</i>						
Scenarios	WY 2022	WY 2023	WY 2024	WY 2025	WY 2026	WY 2027
<i>Scenario 2a- DWR Reimburses within 9 months and Maintain Reserve of 9 months expenditures</i>						
Pumping Assessment	\$458,000	\$980,000	\$655,000	\$230,000	\$200,000	\$200,000
Year-End Reserves	\$348,387	\$698,592	\$701,326	\$700,895	\$1,069,663	\$699,693
<i>Scenario 2b- DWR Reimburses within 9 months and Maintain Reserve of 7 months expenditures</i>						
Pumping Assessment	\$458,000	\$825,000	\$652,000	\$230,000	\$200,000	\$200,000
Year-End Reserves	\$348,387	\$543,592	\$543,326	\$542,895	\$911,663	\$541,693

IV.C – Review of 2nd Draft WY 2023 Budget

- Watermaster has to invest working capital to preform the grant funded scope of work, requiring increased pumping assessments in WY 2023 and WY 2024 to pre-fund the work
 - To meet criteria set by Watermaster, WY 2023 assessments should be about \$700,000 to \$980,000
- The benefit of the grant is not realized until WYs 2026 and 2027 at which time the pumping assessments can be greatly reduced due to the influx of grant reimbursement funds.
 - Assessments in these out years could be \$200,000 to \$250,000
- Other funding options?
 - Vice Chair Smith has recommended exploring bank financing in the initial grant period to avoid the significant increase in assessments to the pumpers.

Staff is seeking Board input to select a preferred set of assumptions (e.g., number of months of operating expenses to retain, DWR reimbursement timing, pursuit of financing) that will define the pumping assessment proposed in the final budget for approval in July 2022.

IV.D – DWR Grant Update

V.A – Legal Counsel Report

V.B – Technical Consultant Report

- De Minimis Well permit approval – status update

V.C – Executive Director Report

- Insurance Policy Update
- WY 2022 Assessments – 2nd Installment
- Meter Reading Program
 - Update on metering compliance
 - Recommendation to reduce frequency of “official” Watermaster reads
- July Meeting:
 - WY 2023 Budget Approval
 - WY 2022 Budget Amendment to enable Additional Grant Funded Work that will start before WY 2023
 - Annual Meter Accuracy Testing Requirements – reminder and approach due to grant funding

V.D – Board Chair Report

VI. – Board Member Comments

VII. – Next Regular Meetings

- Thursday, July 14, 2022 at 4:30 pm
- Thursday, August 11, 2022 at 4:30 pm

VIII. – Adjournment