

Borrego Springs Interim Watermaster  
Special Board Meeting  
September 10, 2020 @ 4:30 p.m.

**Due to COVID-19 Meeting Available by Remote Access Only\***

\*Please join my meeting from your computer, tablet, or smartphone.

<https://global.gotomeeting.com/join/913667733>

You can also dial in using your phone.

United States (Toll Free): [1 877 309 2073](tel:18773092073)

United States: [+1 \(646\) 749-3129](tel:+16467493129)

**Access Code: 913-667-733**

New to GoToMeeting? Get the app now and be ready when your first meeting starts:

<https://global.gotomeeting.com/install/913667733>

**AGENDA**

*Items with supporting documents in the Board Package are denoted with a page number.*

**I. OPENING PROCEDURES**

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

**II. PUBLIC CORRESPONDANCE**

- A. Correspondence Received
- B. Public Comments (may be limited to 3 min per person)

**III. CONSENT CALENDAR**

- A. Approval of Minutes
  - i. Special Meeting – August 13, 2020.....Page 3
  - ii. Special Meeting – August 27, 2020.....Page 6

**IV. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION**

- A. Election of Chairperson and Vice-Chairperson of the Board of Directors .....Page 10  
**Recommendation:** Consider a motion electing a Board member as Chairperson and a motion electing a Board member as Vice-Chairperson commencing immediately and continuing through September 30, 2021.
- B. Consideration of Appointment of a Secretary and Treasurer .....Page 11

**Recommendation:** Consider motions appointing a Secretary and a Treasurer for the Watermaster.

C. Consideration of Adoption of a Resolution Adopting Rules and Regulations, Setting the Location, Day and Hour for the Conduct of Regular Watermaster Meetings, Providing for the Conduct of Virtual Meetings and Designating Officers Authorized to Enter Into Agreements on Behalf of Watermaster.....Page 13

**Recommendation:** Adopt Resolution 20-04

D. Meter Read Protocols and Documentation.....Page 33

**Recommendation:** Adopt Resolution No. 20-05

E. Consideration of Approval of Agreement with Borrego Water District to Perform Water Meter Reading Services for Watermaster .....Page 38

**Recommendation:** Approve the *Agreement for Water Meter Reading Services* with Borrego Water District.

F. Watermaster Bank Account (Discussion)

**V. REPORTS AND UPDATES**

- A. Legal Counsel Report - *verbal*
- B. Executive Director Report – *verbal*
  - i. Meter Verification Status

**VI. BOARD MEMBER COMMENTS**

**VII. NEXT MEETINGS OF THE BORREGO SPRINGS WATERMASTER**

*\*Dates are pending outcome of Agenda Item IV.A*

- A. \*Special Board – Thursday, September 24, 2020 4:30 pm
  - i. Potential Agenda Items:
    1. Meter Verification Progress and Meter Reading Update
    2. Watermaster Banking
    3. HydroDaVE Database
    4. Fallowing Standards Verification for Conversion of Water Credits to BPA

**VIII. ADJORNMENT**

Borrego Springs Interim Watermaster Board
MINUTES
Special Meeting
August 13, 2020 @ 4:30 p.m.
OPEN SESSION ITEMS TO BE HEARD AT 5:30
Borrego Water District: 806 Palm Canyon Drive,
Borrego Springs, CA 92004

I. OPENING PROCEDURES

A. Call to Order: Borrego Water District General Manager Geoff Poole called the meeting to order at 4:30 p.m.

B. Pledge of Allegiance: Those present stood for the Pledge of Allegiance.

C. Roll Call: Directors: Present: Jim Bennett, Martha Deichler, Dave Duncan, Shannon Smith
Absent: Mike Seley
Staff: Geoff Poole, BWD
Nick Ghirelli, Richards, Watson & Gershon
Esmeralda Garcia, BWD
Wendy Quinn, Recording Secretary

Public: Rebecca Falk Rich Pinel
Tammy Baker Leanne Crow, County
Kathy Dice, BWD Samantha Adams,
Trey Driscoll, Dudek Wildermuth
Mike Himmerich Environmental
Michele Staples,
Jackson Tidus

D. Approval of Agenda: MSC: Deichler/Duncan approving the Agenda as written. The motion passed by unanimous roll call vote of those present.

E. Approval of Minutes: None

F. Comments from the Public & Requests for Future Agenda Items: None

G. Comments from Directors: None

H. Correspondence Received from the Public: None

II. CLOSED SESSION: PUBLIC EMPLOYEE APPOINTMENT: Appointment of Watermaster Technical Consultant/Executive Director pursuant to subdivision (b)(1) of Government Code Section 54957. The Board adjourned to closed session at 4:35 p.m., and the open session reconvened at 5:30 p.m. There was no reportable action.

I. OPENING PROCEDURES (continued)

F. Comments from the Public & Requests for Future Agenda Items (continued): None

G. Comments from Directors (continued): None

III. ITEMS FOR BOARD CONSIDERATION AND POSSIBLE ACTION

A. Draft Agreement, Subject to Discussion/Negotiation, with Wildermuth Environmental Inc. for Executive Director/Technical Consultant positions: Nick Ghirelli invited the Board's attention to a revised version of the draft professional services agreement between the WMB and Wildermuth Environmental for retention as the Executive Director/Technical

Consultant, and identified the differences between the version included in the Board package. The final version will be posted on the BWD website.

Director Smith orally proposed a Resolution commending and thanking Mr. Poole and Esmeralda Garcia for their administrative support to the WMB pending appointment of WMB staff and appointing them as founding Executive Director and Administrative Assistant to the WMB. ***MSC: Smith/Duncan adopting the proposed Resolution. The motion passed by unanimous roll call vote of those present.***

Director Bennett expressed his enthusiastic support for the selection of Wildermuth Environmental, Samantha Adams as Executive Director and Andy Malone as Technical Consultant. ***MSC: Bennett/Deichler approving the agreement with Wildermuth Environmental Inc., including an amendment to Exhibit A to provide that the cost is not to exceed \$20,000, instead of \$10,000, for meetings and court hearings – Task 1. The motion passed by unanimous roll call vote of those present.*** Michele Staples expressed the support on behalf of the agricultural representatives.

**B. BWD Request for Pumping Fee Credit as Reimbursement for Providing Administrative Support:** Director Duncan reported that the BWD Board had discussed the possibility of recouping its expense for Mr. Poole's and Ms. Garcia's administrative support to the WMB. The total value is between \$12,000 and \$20,000. He asked whether BWD might deduct the amount from their pumping fees. Director Smith pointed out that it would require an amendment to the WMB budget. Director Duncan asked Mr. Poole to develop a more specific cost figure.

**C. Meter Reading and Related Issues:**

1. Selection of BWD for Meter Reading Services. ***MSC: Smith/Deichler moving forward to engage BWD for interim meter reading, instructing Ms. Adams and her team to investigate alternative sources for meter reading and directing Mr. Poole to develop an agreement between the WMB and BWD. The motion passed by unanimous roll call vote of those present.*** Director Bennett recommended that the meter readers provide a monthly summary via e-mail to Ms. Adams listing the pumpers, addresses and time spent.

2. 3<sup>rd</sup> Party Certification of Meter Installations. Director Duncan noted that prior to meter reading, a certification is needed that all meters are appropriate. He asked Ms. Adams to propose a method for doing this, and Director Smith asked her to also prepare the necessary verification forms.

3. Right of Entry Form. Director Smith invited the Board's attention to a proposed Right of Entry Form in the Board package. It creates a contractual relationship between the WMB and the property owner, and was negotiated among the stipulators. ***MSC: Smith/Deichler approving the Right of Entry Form and directing any one of the five Directors to execute it on behalf of the WMB, subject to inclusion of the Meter Program as Exhibit B. The motion passed by unanimous roll call vote of those present.*** Ms. Adams agreed to come back to the Board with a Meter Program and meter readers' insurance evidence in two weeks if possible; if not, the existing form will be used for now. Ms. Staples asked that at the next meeting, the Board address how to verify that the smart meters are talking to the Watermaster before October 1.

#### **IV. STAFF REPORT**

**A. Executive Director's Report: Update on Settlement Agreement/Stipulation Notification of Property Owners in Borrego Springs:** No report.

#### **CLOSING PROCEDURE**

The next Board Meeting is scheduled for August 27, 2020 at Borrego Water District, 806 Palm Canyon Drive, Borrego Springs, CA 92004.

A. Suggested Items for Next Agenda: The suggested items were presented throughout the meeting.

There being no further business, the meeting was adjourned at 6:30 p.m.

Unapproved

**MINUTES**  
**BORREGO SPRINGS INTERIM WATERMASTER SPECIAL BOARD MEETING**  
**Conducted Virtually via GoToMeeting**  
**Thursday, August 27, 2020, 4:30 pm**

**I. Opening Procedures**

- A. Samantha Adams (Executive Director) called meeting to order at 4:31 p.m.
- B. Geoff Poole (BWD) led the meeting participants in the Pledge of Allegiance.
- C. Ms. Adams called roll and confirmed that all members of the Board were present. The following individuals were present at the meeting:

<b>Directors Present</b>	Dave Duncan – Borrego Water District
	Mike Seley – Agricultural Sector
	Jim Bennett – County of San Diego
	Shannon Smith – Recreational Sector
	Martha Deichler (Alternate) – Community Rep.
<b>Watermaster Staff Present</b>	James M. Markman , Watermaster Legal Counsel
	Samantha Adams , Watermaster Executive Director (WEI)
	Kristan Culbert – Staff Scientist, WEI
<b>Others Present</b>	Tammy Baker
	Leanne Crow, County of San Diego
	Kathy Dice, BWD and Borrego Valley Stewardship Council
	Trey Driscoll, DUDEK
	Rebecca Falk
	Diane Hidoski
	Cathy Milkey, Rams Hill
	Rich Pinel, Roadrunner Club and Springs RV and Golf Resort
	Geoff Poole, General Manager BWD
	Michele Staples, Jackson Tidus

- D. Approval of Agenda.

**Motion:** Motioned by Director Deichler, seconded by Director Smith to approve the Agenda as included in the meeting package. *Motion carried unanimously (5-0-0).*

**II. Public Correspondence**

- A. Public Comments. Ms. Adams called for public comments.
  - i. Rebecca Falk inquired if the agenda packages would continue to be distributed via email. Ms. Adams stated that the agenda and package had been sent via email to the list of interested parties provided by BWD and that she would follow up with Ms. Falk to ensure that she has her correct address for future Watermaster notifications.
- B. Correspondence Received: None.

**III. Consent Calendar**

The Consent Calendar for the August 27, 2020 meeting included:

- A. Approval of Minutes for Special meetings on June 11, 2020, June 25, 2020, July 16, 2020, and July 30, 2020.

Director Bennet requested the following change to the minutes from July 30, 2020 under Item F as follows:

“Director Bennett explained that the County has a ~~public comment~~ **protest period** ~~when it selects consultants~~ **after a contractor is selected in which**, during which the public and other contractors **who proposed for the work** may protest.”

Director Deichler inquired if Board alternates are permitted to approve meeting minutes. James Markman (Legal Counsel) stated that alternates are can approve meeting minutes if they were present at the meeting.

**Motion:** Motioned by Director Deichler, seconded by Director Bennett to approve the Consent Calendar as included in the meeting package with the edits presented by Director Bennett. *Motion carried unanimously (5-0-0).*

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

A. *Schedule of Special Board Meetings through October 1, 2020.* Ms. Adams recommended the Watermaster hold two Special Board meetings in September: September 10<sup>th</sup> and 24<sup>th</sup> at 4:30 pm via GoTo meetings.

**Motion:** Motioned by Director Smith, seconded by Director Deichler to approve schedule of Special Board Meetings through October 1, 2020. *Motion carried unanimously (5-0-0).*

B. *Procedure for Approving Consultant Invoices.* Ms. Adams presented the memo included in the Board Package and recommended the Board adopt the documented approach to approving consultant invoices. A discussion followed, and resulted in the following changes to the process defined by Ms. Adams:

- There is no need for legal counsel to be involved in the review of the WEI invoices.
- The consultant invoices, following approval by the appointed Director(s), will be included in the Consent Calendar of the next Board meeting for approval.
- The process will also be followed for review and approval of the legal counsel invoices.

**Motion:** Motioned by Director Duncan, seconded by Director Smith to appoint Directors Bennett and Seley to review and approve consultant invoices per the modified process. *Motion carried unanimously (5-0-0).*

C. *Watermaster Administrative Actions.* Mr. Markman presented his recommendations for consideration and placement as resolution on next meeting’s agenda, as described in the meeting package. Mr. Markman informed the Board that the Watermaster Rules & Regulations contemplates that the Secretary and Treasurer are additional non-voting members of the Board. Director Deichler inquired if these are paid positions and Mr. Markman stated they could be.

**Motion:** Motioned by Director Duncan, seconded by Director Deichler to direct staff and counsel to include a series of recommended administrative actions to be considered at the next Watermaster Board meeting. *Motion carried unanimously (5-0-0).*

D. *Meter Verification.* Ms. Adams presented the information in the meeting package and recommended the approval of Resolution No. 20-03. A discussion followed:

- Rich Pinel suggested combining installation for multiple pumpers to reduce trips by and competition for the vendors.
- Director Bennett suggested that the pumpers may be able to negotiate a better price as a group.
- Director Seley requested Watermaster support in coordinating the vendor services for the pumpers to achieve efficiencies.
- The required information for meter verification should be amended to include GPS coordinates of the well.

**Motion:** Motioned by Director Smith, seconded by Director Bennett to approve Resolution No. 20-03 of the Interim Borrego Springs Watermaster Establishing Criteria for Verification of Meter Calibration, Installation, and Accuracy. *Motion carried unanimously (5-0-0).*

E. *Initial Meter Reads for WY 2021.* Ms. Adams presented the information in the meeting package and recommended that the Board direct staff and counsel to (1) work with BWD to develop an agreement to perform the initial meter reads and (2) execute Right of Entry permits with pumpers. A discussion followed:

- Director Bennett suggested that Watermaster needs an approach to encourage pumpers to sign Entry Permits.
- Director Deichler recommended that existing relationships in the community could be used to help gain support and encourage timely compliance.
- Mr. Markman pointed out that a letter from legal counsel should be a last approach.
- Mr. Pinel recommended that pumpers should provide Watermaster and BWD with special instructions for property access (e.g. keys to locked areas, etc.).
- Director Seley reminded the Board that advance notice is required to access pumpers' properties via the Entry Permit and pumpers could provide the information recommended by Mr. Pinel as part of the Entry Permit process.
- Ms. Staples noted for clarification that BWD would be responsible for meter reads only, not verification information.

**Motion:** Motioned by Director Deichler, seconded by Director Smith to direct staff and counsel to develop a contract with BWD for the initial meter read and work with the pumpers to execute the Right of Entry Permits. *Motion carried unanimously (5-0-0).*

F. *Request for Letter of Support for the Borrego Valley Stewardship Council Grant Application.* Director Deichler and Kathy Dice (BWD), representatives of the Borrego Valley Stewardship Council (BVSC), solicited a letter of support from the Borrego Springs Watermaster Board of Directors for its application for grant funds from the California Department of Conservation Sustainable Groundwater Management Watershed Coordinator Grant Program. A discussion followed:

- Director Smith acknowledged that, while a worthy cause, it is outside of the mission of the Borrego Springs Watermaster.



- Director Bennett noted that he would be required to abstain from this vote due to a conflict of interest with his role at the County
- Director Seley mentioned that he would have to verify if his support would be a conflict of interest given that he is involved with another group who has applied for grant funding through the same program.
- Ms. Dice pointed out that the grant application is due next week, which would limit the amount of informational materials that the BVSC could immediately provide to the Board in advance of the grant deadline.
- Given the insufficient time to provide follow-up information, the item was tabled.

**V. Reports and Updates**

- A. Legal Counsel Report - *none*.
- B. Executive Director Report - *none*

**VI. Board Member Comments.** Director Smith requested an introduction to HydroDAVE (the WEI database) and its capabilities in an upcoming Board meeting.

**VII. Upcoming Borrego Springs Watermaster Board Meetings.** Per approval of Agenda Item IV.A, the next Special Board meetings of the Watermaster Board are: Thursday, September 10, 2020 and Thursday, September 24, 2020, both at 4:30 pm.

Ms. Adams informed the Board that the September 10, 2020 Board Meeting will include updates on meter verification/reading and Watermaster administrative matters, and that the September 24, 2020 Board Meeting will include updates on meter verification progress and introduction to HydroDAVE.

**VIII. Adjournment.** Ms. Adams adjourned the Board meeting at 5:52 p.m.

**Interim Borrego Springs Watermaster  
Board of Directors Meeting  
September 10, 2020  
AGENDA ITEM IV.A**

**To:** Board of Directors  
**From:** James L. Markman, General Counsel  
**Date:** September 9, 2020  
**Subject:** Consideration of Election of Chairperson and Vice-Chairperson for a term commencing immediately and continuing through Water Year 2020-2021 (October 1, 2020 through September 30, 2021)

**Recommended Action**

The Watermaster Board should consider a motion electing a member to the position of Chairperson of that board commencing immediately and continuing through September 30, 2021. A motion and second to so elect a person is the only action required. It is not necessary to nominate a person or persons or to have a motion to close nominations.

Once a member is elected as Chairperson, he or she should preside over the meeting.

The next recommended action is to consider a motion electing a Vice-Chairperson of the Board for a term of office commencing immediately and continuing through September 30, 2021.

Fiscal Impact: None.

**Background and Previous Actions by the Board**

Article II, Section 3 of the Watermaster Rules and Regulations<sup>1</sup> incorporated as Exhibit 5 to the proposed Stipulated Judgment, and in effect pursuant to the Settlement Agreement establishing the Watermaster, provides for the Watermaster to elect one of its members as its Chairperson and another as its Vice-chairperson for terms including a full Water Year. The continued function of the Watermaster will be facilitated by the Watermaster Board choosing those officers prior to the commencement of the 2020-2021 Water Year on October 1, 2020. The Watermaster Board approved a motion during its August 27, 2020 meeting to place these elections for the Watermaster Board’s consideration on its next meeting agenda.

---

<sup>1</sup> The Rules and Regulations are to be considered for formal adoption as part of Agenda Item IV.C of this Board meeting.

**Interim Borrego Springs Watermaster  
Board of Directors Meeting  
September 10, 2020  
AGENDA ITEM IV.B**

**To:** Board of Directors  
**From:** James L. Markman, General Counsel  
**Date:** September 9, 2020  
**Subject:** Consideration of Appointment of a Secretary and Treasurer

**Recommended Action**

The Watermaster Board should consider motions appointing a Secretary and a Treasurer for the Watermaster.

Fiscal Impact: None. The Interim Watermaster Budget contemplates the performance of the duties associated with the Secretary and Treasurer.

**Background and Previous Actions by the Board**

Article II, Section 3 of the Watermaster Rules and Regulations<sup>1</sup> incorporated as Exhibit 5 to the proposed Stipulated Judgment, and in effect pursuant to in the Settlement Agreement establishing the permits the appointment of a Watermaster Secretary and a Watermaster Treasurer who are not voting members of the Board:

*The Watermaster Board may also appoint a non-member secretary and a non-member treasurer as additional, nonvoting staff members to the Watermaster Board.*

The Watermaster Board approved a motion during its August 27, 2020 meeting to place these appointments on its next meeting agenda.

**Discussion**

The appointment of persons to the positions of Secretary and Treasurer will facilitate the continued functions of the Watermaster. Following the initial discussion of the above referenced language in the Rules and Regulations at the August 26, 2020 meeting, the Board has identified that further discussion is warranted regarding the roles of Watermaster Secretary and Treasurer, specifically if the appointees should be Board members or non-voting members of the Board. Given that the appointment of the Secretary and Treasurer is permissive (e.g. “may”<sup>2</sup>), and not required, Watermaster could either (1) hire personnel to independently discharge the necessary organizational duties or (2) appoint a Board member to direct and oversee personnel to perform the duties.

---

<sup>1</sup> The Rules and Regulations are to be considered for formal adoption as part of Agenda Item IV.C of this Board meeting.

<sup>2</sup> Section of the Rules and Regulations defines “may” as permissive.

The role of Secretary:

- If performed by a non-voting Board member, would be to record meeting minutes; review and certify documents approved by the Watermaster—such as meeting minutes and resolutions; and to serve as a secondary authorized person to execute contracts and agreements approved by the Watermaster should the Chairman of the Board be unavailable to provide signature.
- If performed by a Board member, would be to direct WEI, or other personnel hired by the Watermaster, to record meeting minutes; review and certify the approved meeting minutes; and to serve as a secondary authorized person to execute contracts and agreements approved by the Watermaster should the Chairman of the Board be unavailable to provide signature.

The role of Treasurer:

- If performed by a non-voting Board member, would be to provide accounting and financial services to the Watermaster, such as managing the Watermaster bank account, issuing assessment invoices to BPA Parties, paying invoices for services, signing and depositing checks, preparing financial statements for the Board, overseeing the annual audit, and other related tasks.
- If performed by a Board member, would be to direct and oversee WEI, or other personnel hired by the Watermaster, to perform the above duties.

The Watermaster Board should discuss the roles, select an appropriate approach to performing the functions of Secretary and Treasurer, and make a motion to appoint a Secretary and Treasurer.

**Interim Borrego Springs Watermaster  
Board of Directors Meeting  
September 10, 2020  
AGENDA ITEM IV.C**

**To:** Board of Directors  
**From:** James L. Markman, General Counsel  
**Date:** September 9, 2020  
**Subject:** Consideration of Adoption of a Resolution Adopting Rules and Regulations, Setting the Location, Day and Hour for the Conduct of Regular Watermaster Meetings, Providing for the Conduct of Virtual Meetings and Designating Officers Authorized to Enter Into Agreements on Behalf of Watermaster

**Recommended Action**

Adopt Resolution 20-04 providing for the adoption of the Rules and Regulations; date, time, and location of meetings; and authority necessary for Watermaster functions.

Fiscal Impact: None.

**Background and Previous Actions by the Board**

Section IV.D of the Stipulated Judgment provides that Watermaster will operate pursuant to the Watermaster Rules and Regulations attached to the Judgment as Exhibit 5.

The Watermaster Board approved a motion during its August 26, 2020 meeting to place consideration of a resolution on the agenda of its next meeting, taking the basic actions necessary to Watermaster functions. One item has been added to the subject matter of the resolution not previously discussed. That item is the designation of Watermaster Officials authorized to execute Agreements on behalf of the Watermaster. The need for this action was made clear in staff discussions of Watermaster entering into right of entry agreements for meter readings.

In addition, the designation of a principal office was to be considered, but the Rules and Regulations require that office to be located in Borrego Springs. That requirement may not be an operational choice which the Board feels has merit. Once the Judgment is entered, the Rules and Regulations could be amended to locate that office at another location, such as the Executive Director's office.

**Encl.**

RESOLUTION No. 20-04 OF THE BOARD OF DIRECTORS OF INTERIM BORREGO SPRINGS WATERMASTER ADOPTING RULES AND REGULATIONS; SETTING THE TIME, DAYS AND LOCATION FOR THE CONDUCT OF ITS REGULAR BOARD MEETINGS; PROVIDING FOR VIRTUAL BOARD MEETINGS; AND PROVIDING AUTHORITY FOR CERTAIN OFFICIALS TO EXECUTE AGREEMENTS ON ITS BEHALF

Exhibit 1 to Resolution 20-04 – Watermaster Rules and Regulations (Exhibit 5 to the Stipulated Judgment)

RESOLUTION NO. 20-04 OF THE  
BOARD OF DIRECTORS OF THE INTERIM BORREGO SPRINGS WATERMASTER ADOPTING RULES  
AND REGULATIONS, SETTING THE TIME, DAYS AND LOCATION FOR THE CONDUCT OF ITS  
REGULAR BOARD MEETINGS, PROVIDING FOR VIRTUAL BOARD MEETINGS AND PROVIDING  
AUTHORITY FOR CERTAIN OFFICIALS TO EXECUTE AGREEMENTS ON ITS BEHALF

The Borrego Springs Watermaster does hereby find, determine and resolve as follows:

1. Those Rules and Regulations attached to this Resolution and marked as Exhibit 1 hereby are adopted as the Rules and Regulations governing the activities, functions and actions of the Watermaster.

2. The following time, days and location of the regular meeting of the Watermaster Board are as follows:

A. Time:

B. Days:

C. Location: Board Meeting Room of Borrego Water District, 806 Palm Canyon Drive, Borrego Springs, California.

3. Until Executive Orders of California’s Governor concerning the conduct of public meetings are rescinded, or sooner, as ordered by this Watermaster Board, all meetings of this Board shall be virtual, conducted by telephonic or other electronic means in accordance with applicable meeting requirements.

4. This Watermaster Board’s Chairperson, or in his or her absence, its Vice Chairperson and the Watermaster’s Executive Director hereby are authorized to execute agreements on behalf of this Watermaster.

**PASSED AND ADOPTED** at a special meeting of the Board of Directors of the Interim Borrego Springs Watermaster held on the 10th day of September 2020, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

\_\_\_\_\_  
Chairperson  
Board of Directors

\_\_\_\_\_  
Secretary  
ATTEST

EXHIBIT 1

[Rules and Regulations]

**RULES AND REGULATIONS**

**OF THE**

**BORREGO SPRINGS WATERMASTER**

[INSERT CASE INFORMATION]



TABLE OF CONTENTS

	Page
ARTICLE I GENERAL PROVISIONS .....	1
1.1 Title.....	1
1.2 Amendment.....	1
1.3 Definitions.....	1
1.4 Construction.....	2
ARTICLE II WATERMASTER ADMINISTRATION .....	3
2.1 Composition.....	3
2.2 Terms .....	3
2.3 Organization of Watermaster.....	3
2.4 Watermaster Staff .....	3
2.5 Compensation .....	4
2.6 Powers and Duties of the Watermaster.....	4
2.6.1 Standard of Performance.....	4
2.6.2 Selection of Watermaster Technical Consultant.....	4
2.6.3 Environmental Working Group (EWG).....	4
2.6.4 Accounting.....	4
2.6.5 Investment of Funds.....	4
2.6.6 Borrowing .....	4
2.6.7 Liability Insurance .....	4
2.6.8 Powers/Contracts .....	5
2.6.9 Record of Transfers.....	5
2.6.10 Enforcement Authority .....	5
2.6.11 Unauthorized Actions .....	5
2.6.12 Notice List.....	5
2.6.13 Service.....	6
2.6.14 Defense of Judgment.....	6
2.7 Administration .....	6
2.7.1 Offices.....	6
2.7.2 Records .....	6
2.8 Watermaster Meetings and Notice.....	7

2.8.1 Regular Meetings ..... 7

2.8.2 Special Meetings ..... 7

2.8.3 Adjournment ..... 7

2.8.4 Minutes; Statement of Proceedings ..... 7

2.8.5 Closed Sessions..... 7

2.9 Voting Procedures..... 8

2.10 Court Removal of Watermaster Board Members ..... 8

ARTICLE III WATERMASTER TECHNICAL ADVISORY COMMITTEE ..... 8

3.1 Authorization; Composition..... 8

3.2 Compensation and Expenses..... 8

3.3 Powers and Functions ..... 8

3.4 Advisory Committee’s Rules and Regulations ..... 8

3.5 TAC Duties ..... 8

ARTICLE IV WATERMASTER TECHNICAL CONSULTANT..... 9

4.1 Selection..... 9

4.2 Duties ..... 9

4.2.1 Performance of Duties ..... 9

4.2.2 Monitoring Sustainable Yield..... 9

4.2.3 Reduction in Groundwater Pumping ..... 9

4.2.4 Measuring Devices, Etc ..... 9

4.2.5 Hydrologic Data Collection ..... 9

4.2.6 Pumping Reports..... 10

4.2.7 Data, Estimates and Procedures..... 10

4.2.8 Annual Report Procedure. .... 10

4.2.9 Five Year Reports ..... 10

4.2.10 Additional Technical Duties and Undertakings ..... 10

ARTICLE V MONITORING..... 10

5.1 Monitoring ..... 10

5.2 Meters ..... 10

5.3 Interim Meter Tests..... 11

5.4 Estimation of Pumping Due to Meter Maintenance ..... 11

5.5 Pumping Reports..... 11

ARTICLE VI ASSESSMENTS..... 11

6.1 Assessments ..... 11

6.2 Delinquent Assessment Payments ..... 11

6.3 Levy ..... 11

6.4 Delinquent Assessment List..... 12

6.5 Assessment Accounting ..... 12

6.6 Payment of Assessments Pending Review ..... 12

6.7 Assessment Adjustments ..... 12

ARTICLE I

GENERAL PROVISIONS

1.1 Title. This document will be known as the Borrego Springs Watermaster Rules and Regulations or Rules and Regulations. This document was adopted as part of and pursuant to the Judgment.

1.2 Amendment. The Rules and Regulations may be amended only by a Supermajority Vote of the Watermaster Board. All amendments shall be consistent with the Judgment and are subject to approval by the Court at the request of the Watermaster or upon the request of any Party after consideration of the objections of any Party.

1.3 Definitions. The definitions below are set forth for convenience of reference and are intended to be consistent with those set forth in the Judgment (to the extent there is overlap of terms). In the case of any inconsistencies, the definitions in the Judgment prevail over those described below. Any capitalized term used in these Rules and Regulations not defined herein, but defined in the Judgment, will have the meaning ascribed to such term in the Judgment.

1.3.1 Annual Allocation. The maximum amount of Pumping allowed for a Party to the Judgment in a given Water Year (excepting any Pumping of Carryover or imported water if available), which for any particular Water Year will be determined by multiplying the Party's BPA by the Pumping Percentage in effect for that Water Year. Annual Allocation will be rounded to the nearest whole acre-foot.

1.3.2 Annual Report. An annual report of Basin management and Watermaster activities filed with this Court

1.3.3 Basin. Borrego Springs Subbasin of the Borrego Valley Groundwater Basin, as defined by California Department of Water Resources (DWR) Bulletin No. 118, Subbasin No. 7.024.01.

1.3.4 BPA. The maximum allowed Pumping quantity allocated to a Party to the Judgment

1.3.5 Brown Act. The Ralph M. Brown Act, California Government Code sections 54950, et seq., as may be amended from time to time.

1.3.6 Carryover. Any portion of a Party's Annual Allocation not Pumped in the Water Year in which it is allowed, which may be accrued and produced in future Water Years

1.3.7 County. San Diego County government.

1.3.8 Groundwater Dependent Ecosystem (GDE). Ecological communities or species that depend on groundwater emerging from aquifers or on groundwater occurring near the ground surface (California Code of Regulations, tit. 23, § 351(m)).

1.3.9 Groundwater Management Plan (GMP). The plan, attached as Exhibit 1 to the Judgment, which together with the Judgment is intended to implement the Physical Solution for the Basin, satisfy the substantive objectives of SGMA, and serve as an alternative to a groundwater sustainability plan under SGMA following approval by DWR, as authorized by Water Code sections 10733.6 and 10737.4.

1.3.10 Judgment. The Judgment entered by the Court on [date] in the action [case].

1.3.11 Lease. A transfer of Annual Allocation or Carryover for one Water Year (a single year Lease) or for several water years (a multi-year Lease), as will be set forth in the Lease agreement.

1.3.12 Management Areas. The North, Central and South areas of the Basin, as described in the GMP.

1.3.13 Overproduction. Pumping by a Party in any particular Water Year in excess of the sum of the Party's Annual Allocation and any leased Annual Allocation for that Water Year plus any accrued Carryover.

1.3.14 Overproduction Penalty Assessment. A penalty fee for Overproduction.

1.3.15 Party (Parties). Any Person(s) that has (have) been named and served or otherwise properly joined, or has (have) become subject to this Judgment of this Court and all their respective heirs, successors-in-interest and assigns.

1.3.16 Pumping Percentage. The percent of a Party's BPA that is authorized to be Pumped in any particular Water Year.

1.3.17 Rules and Regulations or Borrego Springs Watermaster Rules and Regulations. This document, as amended and supplemented.

1.3.18 SGMA. The Sustainable Groundwater Management Act set forth at California Water Code section 10720, et seq.

1.3.19 Sustainable Yield (Safe Yield). The maximum quantity of water, calculated over a base period representative of long-term conditions in the Basin that can be withdrawn annually from a groundwater supply without causing an Undesirable Result.

1.3.20 TAC. Technical Advisory Committee.

1.3.21 Undesirable Results. As defined in Water Code section 10721(x).

1.3.22 Water Year. October 1<sup>st</sup> to September 30<sup>th</sup>, consistent with Water Code section 10721(aa).

1.4 Construction. Unless the context clearly requires otherwise:

1.4.1 The plural and singular forms include the other;

1.4.2 “Shall,” “will,” and “must” are each mandatory;

1.4.3 “May” is permissive;

1.4.4 “Or” is not exclusive; and

1.4.5 “Includes” and “including” are not limiting.

1.4.6 The masculine gender shall include the feminine and neutral genders and vice versa.

1.4.7 Reference to any agreement, document, instrument, or report means such agreement, document, instrument or report as amended or modified and in effect from time to time in accordance with the terms thereof.

1.4.8 These Rules and Regulations shall be construed consistent with the Judgment. In the event of a conflict between these Rules and Regulations and the Judgment, the Judgment shall prevail.

## ARTICLE II

### WATERMASTER ADMINISTRATION

2.1 Composition. Pursuant to Section IV.A of the Judgment, the Court has appointed a Watermaster to administer the provisions of the Judgment, including the GMP and any subsequent instructions or orders of this Court thereunder.<sup>1</sup>

2.2 Terms. Once appointed in the manner set forth in the Judgment, Watermaster Board members shall continue as board members indefinitely until they resign, are replaced by their respective appointing entity(s), vacate their seat or are removed by the Court for cause.

2.3 Organization of Watermaster. At its first meeting each year, the Watermaster Board will elect a chairperson and a vice chairperson from its membership. The Watermaster Board may also appoint a non-member secretary and a non-member treasurer as additional, non-voting staff members to the Watermaster Board.

2.4 Watermaster Staff. The Watermaster may hire staff consistent with the procedures and requirements of the Judgment. The Watermaster Board may delegate specified powers to any officer or employee of the Watermaster, subject to policies and standards established by the Watermaster Board.

---

<sup>1</sup> To the extent not inconsistent with law or the terms of the Judgment, these Rules and Regulations shall be applicable to any Interim Watermaster approved by the Court or otherwise operated by the Parties following agreement to implement the provisions of the Judgment by a substantial majority of the Parties before the Court’s entry of the Judgment.

2.5 Compensation. The entities and/or Parties appointing individuals to the Watermaster Board will be responsible for payment of compensation, if any, and reimbursement of expenses of their respective Watermaster Board representative.

2.6 Powers and Duties of the Watermaster.

2.6.1 Standard of Performance. The Watermaster shall carry out its duties, powers, and responsibilities in an impartial manner without favor or prejudice to any Management Area, Party, or purpose of use. In carrying out its charge, the Watermaster shall as required segregate and separately exercise in all respects the Watermaster powers delegated by the Court under the Judgment. In exercising its powers and fulfilling its duties, the Watermaster shall rely on and use the best available science, records, and data to implement the Judgment and these Rules and Regulations, consistent with the provisions of Section IV.E(9) of the Judgment.

2.6.2 Selection of Watermaster Technical Consultant. The Watermaster shall select the Watermaster Technical Consultant with the advice of the Technical Advisory Committee. The Watermaster Technical Consultant may exercise any duty or authority vested in the Watermaster as authorized by the Watermaster Board and permitted by the Judgment and applicable law. The Watermaster Technical Consultant may be an independent engineering firm or qualified individual experienced in groundwater hydrology to make recommendations to the Watermaster. The Watermaster Technical Consultant shall serve at the pleasure of the Watermaster Board and may be removed and replaced, subject to 30 days' advance written notice to the Parties and the approval of the Court if such Court approval is requested by any Party. Provided, however, that the Watermaster Technical Consultant may be removed immediately by unanimous vote of the Watermaster Board. The Watermaster Technical Consultant may also serve as Executive Director of the Watermaster.

2.6.3 Environmental Working Group (EWG). An EWG shall be established to advise the Watermaster on GDE and any other matters approved by the Watermaster Board.

2.6.4 Accounting. The Watermaster shall provide for the levy, billing, and collection of all assessments provided for under the Judgment, for the payment of costs and expenses of the Watermaster, and for the performance of such accounting and related functions as may be required in connection with those functions. All funds received, held, and disbursed by the Watermaster shall be by way of separate Watermaster accounts, subject to separate accounting and auditing.

2.6.5 Investment of Funds. The Watermaster may hold and invest all Watermaster funds in investments authorized from time to time for public agencies of the State of California, taking into account the need to increase the earning power of such funds and to safeguard the integrity thereof.

2.6.6 Borrowing. The Watermaster may borrow in anticipation of receipt of proceeds from any assessments authorized in the Judgment in an amount not to exceed the amount of assessments for one year following the procedures described in the Judgment.

2.6.7 Liability Insurance. The Watermaster shall be authorized to obtain and maintain such insurance policies as the Watermaster Board deems appropriate.

2.6.8 Powers/Contracts. The Watermaster may exercise any of the powers described in the Judgment, and may enter into contracts and agreements for the performance of any of such powers on its behalf, provided that Watermaster maintains full oversight of the exercise of such powers.

2.6.9 Record of Transfers. On an annual basis, the Watermaster shall prepare and maintain a report or record of any transfer of BPA among Parties, and update as needed Exhibit 4 to the Judgment. The Watermaster shall file, on an annual basis, an updated Exhibit 4 to the Judgment with the Court, or a statement that no transfer of BPA has occurred in the prior Water Year. Upon reasonable request, the Watermaster shall make such report or record available for inspection by any Party, subject to any order of the Court related to the privacy of information or otherwise.

2.6.10 Enforcement Authority. The Watermaster shall enforce the terms of the Judgment and Groundwater Management Plan as described in the Judgment, and in doing so, may exercise the enforcement authority granted to a groundwater sustainability agency under Water Code section 10732 in addition to any other authority authorized by the Judgment or subsequent order of the Court.

2.6.11 Unauthorized Actions. The Watermaster shall bring such action or motion as is necessary to enjoin any conduct prohibited by the Judgment or Groundwater Management Plan following the procedures described in the Judgment.

2.6.12 Notice List. At all times, the Watermaster shall maintain a current list of Parties to whom notices are to be sent and their addresses for purpose of service.

(a) The Watermaster shall also maintain a current list of such names and addresses of all Parties or their successors, as filed herein.

(b) The Watermaster shall make copies of such lists available to any requesting Party.

(c) Each Party shall designate a name, mailing address and email address to be used for purposes of all notices and service herein, either by its endorsement on the Judgment or by a separate designation to be filed within thirty (30) days after Judgment has been entered.

(d) If no designation is made, a Party's designee shall be deemed to be, in order of priority:

(i) The Party itself at the address on the Watermaster list; or

(ii) The Party's attorney of record.

(e) A Party may change its designation by submitting a written notice of such change to the Watermaster.



(f) A Party that desires to be relieved of receiving notices of Watermaster activity may submit a waiver of notice in a form to be provided by the Watermaster.

2.6.13 Service. Service of notices, determinations, requests, demands, objections, reports, and other papers pursuant to the Judgment, the Groundwater Management Plan and these Rules and Regulations is the responsibility of the Watermaster. The Watermaster will annually establish the service costs. Unless otherwise ordered by the Court, delivery to or service of any Party by the Watermaster, the Court, or any Party of any document required to be served upon or delivered to a Party pursuant to the Groundwater Management Plan or these Rules and Regulations shall be deemed made if made by electronic-filing on a website to be maintained by the Watermaster, with email correspondence to all Parties that have provided Watermaster with an email address pursuant to Section 2.6.12.

Delivery to or service upon any Party by the Watermaster, by any other Party, or by the Court, of any item required to be served upon or delivered to a Party under or pursuant to the Groundwater Management Plan or these Rules and Regulations may also be made by one of the following methods:

(a) First class mail, postage prepaid, addressed to the latest designee of the Party to be served and at the address on the latest designation field by the Party. If the item required to be served is available online, mail service is deemed complete upon mailing of the notice of the exact website location where the item may be viewed.

(b) Electronic Mail addressed to the latest designee of the Party to be served at the email address identified on the latest designation filed by the Party pursuant to Section 2.6.12.

2.6.14 Defense of Judgment. The Watermaster shall reasonably defend the Judgment, the GMP, these Rules and Regulations, and any decision of the Watermaster made pursuant to these Rules and Regulations against challenges brought by any person. Costs incurred by the Watermaster in defending such actions shall be considered a Watermaster general administrative expense.

2.7.16 Grant Funding. The Watermaster shall use best efforts to apply for available grant funding to further sustainable management of the Basin and offset its costs.

## 2.7 Administration.

2.7.1 Offices. The principal office of the Watermaster shall be located in Borrego Springs at such location or locations as may be designated from time to time by the Watermaster.

2.7.2 Records. The Watermaster's records shall be maintained at its principal office.

(a) Subject to protection of information not subject to disclosure by order of the Court, the Watermaster's records can be reviewed during regular business hours. If copies are requested, they may be obtained by paying for the cost of duplication.

(b) If records are requested in electronic format, the person requesting the records will be responsible for the cost of a consultant to prepare the documents plus the cost of any storage device necessary to provide electronic records.

(c) The Watermaster shall maintain a website.

(d) Subject to protection of information not subject to disclosure by order of the Court, the Watermaster shall publish those records and other matters that it deems to be of interest to the Parties, the general public, or the Court on its website.

2.8 Watermaster Meetings and Notice. The Watermaster shall hold meetings and provide notice of such meetings as provided for in the Judgment and these Rules and Regulations. Unless contrary to the provisions of the Judgment or the body of these Rules and Regulations, the Watermaster Board agrees to use best efforts to conduct its proceedings in conformance with the Governance Charter attached hereto as Exhibit A.

2.8.1 Regular Meetings. The Watermaster Board will conduct regular meetings at least quarterly. Unless otherwise specified, regular meetings shall be held at the principal office of the Watermaster or such other location designated by the Watermaster Board at such time(s) as specified in the necessary notice(s) thereof. The Watermaster shall provide electronic notice of any changes in the time or place of scheduled or regular meetings to all persons that request such notice.

2.8.2 Special Meetings. Special meetings may be called at any time by delivering notice thereof at least twenty-four (24) hours before the time of such meeting. The Watermaster Board shall ensure all special meetings are conducted in substantial accordance with the applicable provisions of the Brown Act.

2.8.3 Adjournment. Any Watermaster Board meeting may be adjourned to a time and place that is specified in the order of adjournment. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the meeting was held or to be held, within twenty-four hours after the adoption of the order of adjournment.

2.8.4 Minutes; Statement of Proceedings. The secretary of the Watermaster Board (or designee) shall cause the preparation and subscription of the minutes of each Watermaster Board meeting and make available a copy thereof to all Parties and each person who has filed a request for copies of all minutes or notices in writing. The minutes shall contain a full and complete record of the proceedings of the Watermaster Board at each meeting, including the entry in full of all resolutions and of all decisions. The minutes shall constitute notice of all actions therein reported. Unless a reading of the minutes is ordered by a majority of the members of the Watermaster Board, minutes may be approved without reading. The Watermaster shall publish a copy of its minutes on the Watermaster's website.

2.8.5 Closed Sessions. The Watermaster Board may hold closed sessions when authorized by and in compliance with the Brown Act.

2.9 Voting Procedures.

2.9.1 Each member of the Watermaster Board shall have one (1) vote. No proxy or absentee voting is permitted.

2.9.2 All Watermaster decisions shall be by quorum, subject to any Supermajority Vote requirement, as described in the Judgment. A quorum is three members of the Watermaster Board.

2.10 Court Removal of Watermaster Board Members. Notwithstanding any other provisions of these Rules and Regulations, the Court retains and reserves full jurisdiction, power, and authority to remove any Watermaster, or member of the Watermaster Board, for good cause and substitute a new Watermaster or board member in place, upon its own motion or upon motion of any Party in accordance with the notice and hearing procedures set forth in the Judgment. The Court shall find good cause for the removal of a member of the Watermaster upon a showing that the Watermaster member(s) at issue has:

2.10.1 Failed to exercise its powers or perform its duties; or

2.10.2 Otherwise failed to act in the manner consistent with the provisions set forth in the Judgment or subsequent order(s) of the Court.

**ARTICLE III**

**WATERMASTER TECHNICAL ADVISORY COMMITTEE**

3.1 Authorization; Composition. Pursuant to the Judgment, a committee of representatives shall be organized to act as a Technical Advisory Committee (TAC).

3.2 Compensation and Expenses. The TAC members shall serve without compensation or reimbursement of expenses by Watermaster.

3.3 Powers and Functions. The TAC shall have the powers and duties described in the Judgment.

3.4 Advisory Committee's Rules and Regulations. Subject to section 3.5, procedures regarding organization, meetings, and other activities of the TAC shall be at the discretion of the TAC, with oversight by the Watermaster.

3.5 TAC Duties. The TAC shall:

3.5.1 Meet on a regular basis as described in the Judgment;

3.5.2 Review Watermaster's activities within the subject matter expertise described in the Judgment on at least a semi-annual basis; and

3.5.3 Make recommendations based on best science and data collected, consistent with the provisions of the Judgment, regarding the matters described in the Judgment and other matters as directed by the Watermaster.

**ARTICLE IV**

**WATERMASTER TECHNICAL CONSULTANT**

4.1 Selection. The Watermaster Board shall select the Watermaster Technical Consultant, who may also serve as the Watermaster Executive Director, with the advice of the TAC through the process described in the Judgment.

4.2 Duties.

4.2.1 Performance of Duties. In exercising its powers and fulfilling its duties, the Watermaster Technical Consultant shall rely on and use the best available science, records, and data to support the implementation of the Judgment and these Rules and Regulations.

4.2.2 Monitoring Sustainable Yield. The Watermaster Technical Consultant shall monitor production and related data and conduct Borrego Valley Hydrologic Model (BVHM) model runs as required by the Judgment, and include them in the Annual Report.

4.2.3 Reduction in Groundwater Pumping. The Watermaster Technical Consultant shall ensure that any required reductions of groundwater pumping take place pursuant to the terms of the Judgment and any orders by the Court.

4.2.4 Measuring Devices, Etc. The Watermaster Technical Consultant shall propose, and the Watermaster Board shall adopt and maintain, rules and regulations regarding metering and data collection consistent with the provisions of the Judgment.

4.2.5 Hydrologic Data Collection. The Watermaster Technical Consultant shall:

(a) Operate, and maintain wells, measuring devices, and/or meters necessary to monitor stream flow, precipitation, groundwater levels, and Management Areas as directed by the Judgment and the Watermaster and in compliance with the terms of any Entry Agreement required by the Judgment or by order of the Court, and cooperate with those who own and operate other wells and measuring devices to obtain the necessary data; provided, that the Watermaster Technical Consultant need not conduct such activities to the extent such data is reasonably available through other means, including but not limited to through meters installed on private wells that report data to Watermaster telemetrically; and

(b) Obtain such other data as may be necessary to carry out the Judgment and GMP, in compliance with the terms of the Judgment.

4.2.6 Pumping Reports. The Watermaster Technical Consultant shall require each Party to file an annual pumping report with the Watermaster. Pumpers shall prepare the pumping reports in a form prescribed by the Watermaster consistent with the provisions of the

Judgment. Such pumping reports shall be prepared in accordance with any relevant orders of the Court.

4.2.7 Data, Estimates and Procedures. The Watermaster Technical Consultant shall rely on and use the best available science, records, and data to support the implementation of the Judgment, including BVHM model runs. Where actual records of data are not available, the Watermaster Technical Consultant shall rely on and use sound scientific and engineering estimates. The Watermaster Technical Consultant may use preliminary records of measurements and, if revisions are subsequently made, may reflect such revisions in subsequent accounting.

4.2.8 Annual Report Procedure. The Watermaster Technical Consultant shall prepare an Annual Report containing the information set forth in Section IV.E(5)(b) of the Judgment for filing with the Court not later than April 1 of each Year, beginning April 1, 2021. Prior to filing the Annual Report with the Court, the Watermaster shall notify all Parties that a draft of the Annual Report is available for review by the Parties. The Watermaster shall provide notice to all Parties of a public hearing to receive comments and recommendations for changes in the Annual Report. At the hearing, the Watermaster will receive comments and recommendations for changes in the report. The notice of public hearing may include such summary of the draft Annual Report as the Watermaster may deem appropriate. The Watermaster shall distribute the Annual Report to any persons requesting copies and providing an email address for receipt of such Annual Report.

4.2.9 Five Year Reports. Per Water Code, section 10733.8, the Watermaster Technical Consultant shall prepare and present to the Watermaster Board for approval any five-year updates to the Groundwater Management Plan required by SGMA/DWR consistent with the terms of the Judgment.

4.2.10 Additional Technical Duties and Undertakings. The Watermaster Technical Consultant shall perform such additional technical duties and undertakings as assigned by Watermaster following input and recommendations from the tac prior to such assignment.

## **ARTICLE V MONITORING**

5.1 Monitoring. By March 31, 2020, all Parties shall install approved meters on their wells for monitoring pumping and submit proof thereof to the Watermaster. The Watermaster or its designee shall provide forms to submit proof of meter installation. Each Party shall bear the cost of installing and maintaining meter(s) on each of its wells.

5.2 Meters. Approved meters are required, such as the SWIIM meter system that can electronically transmit water pumping and other data to the Watermaster in real time on a schedule as determined by the Watermaster, and include calibration by a qualified professional that the well owner will submit annually to the Watermaster. Upon installation and annually thereafter, each pumper shall arrange for the manufacturer or qualified installer of such meters to provide written verification to the Watermaster of the ongoing accuracy of the meter readings and meter calibration, as well as verification that there are no valves or other devices upstream of

the meter that could lead to pumped water being diverted before being read by the meter. The meter shall be accessible and installed according to good design practices. The Watermaster or its designee shall assist any Party having any question as to installation requirements.

5.3 Interim Meter Tests. Should a Party discover that the meter which measures the water pumping from any of the Party’s wells is measuring inaccurately, the Party must immediately notify the Watermaster of the problem, and have the meter repaired within thirty (30) calendar days after discovery of the problem. Upon completion of such repair, the repaired meter shall be tested and sealed by any meter tester authorized by the Watermaster, as provided in these Rules and Regulations. Results of such meter tests shall be furnished to the Watermaster within ten (10) business days after testing.

5.4 Estimation of Pumping Due to Meter Maintenance. When pumping must be estimated due to lack of accurate meter measurements for any reason, the Watermaster or the Watermaster Technical Consultant must approve the method of estimation. A copy of the estimate calculations shall be supplied to the Watermaster.

5.5 Pumping Reports. The pumping reports described in Rule 4.2.6 shall be submitted to the Watermaster no later than December 15 of each Year.

**ARTICLE VI**

**ASSESSMENTS**

6.1 Assessments. The Watermaster’s administrative budget shall be funded through the procedure described in the Judgment.

6.2 Delinquent Assessment Payments. Any assessment which becomes delinquent shall bear interest at the rate described in Water Code section 10730.6(b). This interest rate shall apply to any said delinquent assessment from the due date thereof until paid.

6.3 Levy. Unpaid Pumping Assessments and Overproduction Penalty Assessments will be recoverable as a lien against the parcel to which BPA is assigned and may be foreclosed in the manner provided by law. In addition, unpaid Pumping Assessments and Overproduction Penalty Assessments may be collected on the County property tax rolls, as allowed by law for public water agencies. The delinquent assessment, together with interest thereon, costs of suit, attorneys’ fees and reasonable costs of collection, including obtaining a lien on the property, may also be collected pursuant to:

- (a) Motion by the Watermaster giving notice to the delinquent Party only;
- (b) Order to show cause proceeding, or
- (c) Such other lawful proceeding as may be instituted by the Watermaster or the Court.

6.4 Delinquent Assessment List. The Watermaster shall annually certify a list of all such unpaid delinquent assessments.

6.5 Assessment Accounting. The Watermaster shall account for receipt of all collections of assessments collected pursuant to the Judgment.

6.6 Payment of Assessments Pending Review. Payment of assessments levied by the Watermaster hereunder shall be made pursuant to the time schedule set forth in Sections IV.E(3) and V of the Judgment.

6.7 Assessment Adjustments. The Watermaster shall make assessment adjustments in whole or in part for assessments to any Party as a result of erroneous pumping reports or otherwise as necessary for the reporting period as either a credit or debit in the next occurring assessment invoice unless otherwise decided by the Watermaster. Assessment adjustments may be necessary due to overstated pumping, understated pumping, or errors in the assessment invoice discovered after the assessments have been approved.

EXHIBIT A: GOVERNANCE CHARTER

To achieve the mission of the Watermaster, Board members agree to the following goals for working together and membership on the Board:

- Commit to finding solutions for the common good to reduce critical overdraft in the Basin;
- Commit to the SGMA deadline of 2040 for reaching Sustainable Yield;
- Commit to working openly, honestly, and collaboratively with other Board members;
- Understand that different stakeholder interests must be considered to adequately evaluate all reasonable scenarios for resolving the overdraft; and
- Board members shall be principals or affiliates, not hired representatives of specific interests.

**Section A** – Unless otherwise directed by a Consensus of the Watermaster Board, Robert’s Rules of Order govern the operation of the Board in all cases not covered by this Governance Charter, though the Board may formulate specific procedural rules of order to govern the conduct of its meetings.

**Section B** – Meetings shall be held under the following discussion goals:

- Focus on the future as much as possible.
- All perspectives are valued. You are not required to defend your perspective, but you are asked to share it and to provide supporting rationale.
- All ideas have value. If you believe another approach is better, offer it as a constructive alternative.
- Everyone will have an equal opportunity to participate.
- Everyone will be encouraged to talk.
- One person speaks at a time.
- No side conversations.
- View disagreements as problems to be solved rather than battles to be won.
- Avoid ascribing motives to or judging the actions of others. Please speak about your experiences, concerns, and suggestions. Treat each other with respect.
- Avoid right-wrong paradigms.
- When communicating outside of a Watermaster Board meeting, Members are asked to speak only for themselves when asked about Watermaster activities unless there has been an official decision made by Watermaster consistent with the terms of the Judgment and these Rules and Regulations.

**Section C** – No vote of the Board shall be considered as reflecting an official decision of the Watermaster unless a vote was taken at a meeting conducted in compliance with the Judgment.



**Interim Borrego Springs Watermaster  
Board of Directors Meeting  
September 10, 2020  
AGENDA ITEM IV.D**

**To:** Board of Directors  
**From:** Samantha Adams (WEI), Executive Director  
Andy Malone, PG (WEI), Lead Technical Consultant  
**Date:** September 9, 2020  
**Subject:** Meter Read Protocols and Documentation

---

<input checked="" type="checkbox"/> For Action	<input type="checkbox"/> Fiscal Impact	<input type="checkbox"/> Funds Budgeted
<input type="checkbox"/> Information Only	<input type="checkbox"/> Cost Estimate:	\$

---

**Recommended Action**

Adopt Resolution No. 20-05 of the Interim Borrego Springs Watermaster Establishing Meter Read Protocols and Required Documentation.

Fiscal Impact: None. Pumpers bear the cost of installing, maintaining, and reading meters.

**Background and Previous Actions by the Board**

Section VI.A of the Stipulated Judgment requires that: “Parties holding BPA will install and maintain, at their own expense, meters approved by Watermaster that can electronically transmit a recording of the amount of Groundwater Pumped from the Basin and other data to the Watermaster in real time on a schedule as determined by the Watermaster. This meter program will result in cost savings by avoiding the need for the Watermaster to physically read, inspect and validate the accuracy of meters. Alternatively, any Party holding BPA may elect to install and maintain, at its own expense, other meters approved by Watermaster on condition that: (i) the Watermaster physically read the meters on the schedule determined by the Watermaster and the Party pay all costs associated with the Watermaster’s reading, accounting and reporting related to such meters; and (ii) the Party has executed an Entry Agreement as specified in Exhibit “8” for the purpose of allowing Watermaster access to the Party’s well.”

Section 4.24 of the Rules & Regulations states that the Watermaster Technical Consultant shall propose, and the Watermaster Board shall adopt and maintain, rules and regulations regarding metering and data collection consistent with the provisions of the Judgment.

In discussions at prior meetings, the Board identified that a meter read for September 30, 2020 must be reported to the Watermaster for all wells belonging to pumpers who are signatory to the Settlement Agreement (the settling parties). The meters for settling parties who elected to install manual read meters must be read by the Watermaster and the Board intends to contract with Borrego Water District (BWD) to perform the initial meter reads. The Board directed staff to

develop the appropriate guidelines or forms to ensure BWD collects the appropriate information during the initial meter reading event.

**Meter Read Protocols and Documentation**

The purpose of reading meters is to collect and document the information needed to calculate total groundwater pumping for the water year (or any other time period of interest) at each active pumping well of the BPA Parties. It is critical that the meters are read accurately and that the meter read is properly documented.

The attached Exhibit 1 to is the proposed meter read protocols and required documentation to ensure accuracy of the meter reads.

**Recommended Next Steps**

Approve Resolution No. 20-05 of the Interim Borrego Springs Watermaster Establishing Meter Read Protocols and Required Documentation

**Encl.**

Resolution No. 20-05

Exhibit 1 – Meter Read Protocols and Required Documentation

RESOLUTION NO 20-05 OF THE  
BOARD OF DIRECTORS OF THE INTERIM BORREGO SPRINGS WATERMASTER ESTABLISHING METER READ  
PROTOCOLS AND REQUIRED DOCUMENTATION

WHEREAS, the Settlement Agreement, Stipulated Judgment and Rules & Regulations of the Interim Borrego Springs Watermaster (“Watermaster”) require pumpers with Baseline Pumping Allocations to install Watermaster approved meters.

WHEREAS, the Stipulated Judgment requires that any Party holding BPA may elect to install and maintain, at its own expense, manual read meters approved by Watermaster on condition that: (i) the Watermaster physically read the meters on the schedule determined by the Watermaster and the Party pay all costs associated with the Watermaster’s reading, accounting and reporting related to such meters; and (ii) the Party has executed an Entry Agreement as specified in Exhibit “8” for the purpose of allowing Watermaster access to the Party’s well.

WHEREAS, the Watermaster adopted Resolution No. 20-02 establishing a list of approved meters on March 30, 2020.

WHEREAS, the Rules & Regulations require that the Watermaster Technical Consultant shall propose, and the Watermaster Board shall adopt and maintain, rules and regulations regarding metering and data collection consistent with the provisions of the Judgment.

WHEREAS, the purpose of reading meters is to collect and document the information needed to calculate total groundwater pumping for the water year (or any other time period of interest) at each active pumping well of the BPA Parties.

WHEREAS, the first meter reading will be collected by October 1, 2020 and meter read protocols and required documentation must be established prior to the first meter read event.

NOW, THEREFORE, be it resolved by the Board of Directors of the Interim Borrego Springs Watermaster, that the attached Exhibit 1 serve as the meter read protocols and required documentation.

**PASSED AND ADOPTED** at a special meeting of the Board of Directors of the Interim Borrego Springs Watermaster held on the 10th day of September 2020, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**

\_\_\_\_\_  
Chairperson  
Board of Directors

\_\_\_\_\_  
Secretary  
ATTEST

**Exhibit 1**  
**Meter Read Protocols and Required Documentation**

The purpose of reading meters is to collect and document the information needed to calculate total groundwater pumping for the water year (or any other time period of interest) at each active pumping well of the BPA Parties. It is critical that the meters are read accurately and that the meter read is properly documented.

To ensure accuracy of the meter read, the following protocol must be followed by the meter reader at each well:

- Make a hand written note, or key punch into excel file using a tablet or device, of:
  - BPA Party name
  - Well address
  - The last four digits of the meter serial number (SN)
  - Date and time of meter read
  - The meter read
  - The meter read units
  - Any challenges with reading the meter (e.g. face broken/cracked, no access, etc.)
- Take a time-stamped photograph of:
  - The meter make, model, and serial number
  - The well meter face that clearly shows the meter read and units of measure
- During the first meter read event, record the GPS coordinates of the well location to cross reference with the GPS coordinate data provided by the well owner.

At the completion of the meter reading event:

- Name each photograph with the following file name:
  - Last 4 digits of SN\_Date\_MeterInfo (e.g. 9999\_20200930\_MeterInfo)
  - Last 4 digits of SN\_Date\_MeterRead (e.g. 9999\_20200930\_MeterRead)
- Scan and save any hand written notes with the following file name:
  - Date\_MeterReadNotes (e.g. 20200930\_MeterReadNotes)
- Send photographs and scan of hand written notes (or excel file of notes) to Watermaster Staff

Attachment A1 is the form that should be used for the handwritten or electronic field notes. It will be provided to the meter reader by Watermaster as an Excel file and a PDF file. After the first meter reading event, the form can be updated to pre-populate the well owner and serial number information.



**Interim Borrego Springs Watermaster  
Board of Directors Meeting  
September 10, 2020  
AGENDA ITEM IV.E**

**To:** Board of Directors  
**From:** James L. Markman, General Counsel  
**Date:** September 9, 2020  
**Subject:** Consideration of Approval of Agreement with Borrego Water District to Perform Water Meter Reading Services for Watermaster

**Recommended Action**

Approve the *Agreement for Water Meter Reading Services* with Borrego Water District (BWD).

Fiscal Impact: None. Pumpers bear the cost of installing, maintaining, and reading meters.

**Background and Previous Actions by the Board**

In discussions at prior meetings, the Board has identified that a meter read for September 30, 2020 must be reported to the Watermaster for all wells belonging to pumpers who are signatory to the Settlement Agreement (the settling parties). The meters for settling parties who elected to install manual read meters must be read by the Watermaster. As a cost-effective approach to reading these meters, the Board requested a quote from BWD to perform the meter reads. It was identified that that the BWD cost is cheaper than utilizing WEI staff for this field work.

At its August 27, 2020 meeting, the Watermaster Board approved a motion directing staff and counsel to work with the BWD to develop and agreement to perform the initial meter reads.

**Agreement for Water Meter Reading Services**

The attached *Agreement for Water Meter Reading Services* is enclosed herein for your review and approval. The Agreement includes as Exhibit 1, the Meter Read Protocols and Required Documentation considered for approval by the Board as Agenda Item IV.D at this meeting. The Exhibit 1 attached to the Agreement will be updated to reflect any changes made by the Board during discussion of Agenda Item IV.D.

Once approved by the Board, staff will submit the final agreement to the BWD. The BWD Board of Directors will consider the agreement for approval at its September 22, 2020 Board meeting.

**Encl.**

Agreement for Water Meter Reading Services

Agreement for Water Meter Reading Services

1. Introduction

The Borrego Water District ("District") agrees to provide water meter reading services as described herein to the Borrego Springs Watermaster ("Watermaster").

Accurate measurement of groundwater extractions is essential for the successful management of groundwater in a distressed groundwater basin. Watermaster is the proposed arm of the Court in a pending adjudication that, among other functions, will be responsible for reading measuring devices installed on groundwater extraction wells in the Borrego Basin, Subbasin No. 7.024.01 designated in DWR Resolution No. 116 "(Basin") Watermaster already is performing management functions pursuant to a settlement agreement of certain water producers in the Basin referred to herein as "the Settling Parties". Under the settlement agreement and proposed Judgment, those Parties are required to meter their production and Watermaster desires to cause those meters to be read no later than October 1, 2020, the beginning of the Water Year defined in the settlement agreement and Judgment.

2. Location of Services

The services shall be performed at known well sites in the Basin utilized by the Settling Parties including those entities and individuals who may execute the settlement agreement after the effective date of this Agreement and at all metered production sites upon entry of Judgment or interim order in the pending adjudication which formally will establish Watermaster as a Court agent.

3. Contract Representatives

The Contract Representatives during the term of this Agreement are listed below and may be changed by written notice to the other Party.

<u>District</u>	<u>Watermaster</u>
Geoff Poole, General Manager	Samantha Adams, Executive Director
Borrego Water District	c/o Wildermuth Environmental, Inc.
806 Palm Canyon Drive	23692 Birtcher Drive
Borrego Springs, California 92004	Lake Forest, California 92630
Phone: 760-767-58061	Phone: 949-420-3030
Email: geoff@borregowd.org	Email: sadams@weewater.com

4. District Tasks and Responsibilities

- a. District shall contact Parties to schedule appointments for meter readings for meters requiring on site physical readings.
- b. District shall read all meters at intervals agreed to by the Parties, beginning with meters of Settling Parties and to include all meters required pursuant to any

interim order and the Judgment when entered by the Court. The meter readings shall be performed in accordance with the criteria stated on Exhibit 1 attached hereto.

- c. The Parties agree that District employees that conduct the meter reading or other activities described in this Agreement shall remain District employees and shall not be deemed to be Watermaster employees.

5. Deliverables

- a. On agreed upon intervals, District will provide Watermaster with the data collected from the meters in a medium and format acceptable to both Parties.
- b. On agreed upon intervals, District will send an invoice for payment to the Watermaster for services rendered during the previous interval. Each invoice will specify the number of hours of service provided by district in the previous interval and any District recoverable costs.

6. Watermaster Information for District

Watermaster shall provide District with updated Party contact information and well information as necessary for District to complete the tasks identified in this Agreement. In addition, Watermaster shall obtain an Entry Permit in form and content approved by the Settling Parties or prescribed in the Judgment so that District may physically access the sites in order to read meters on behalf of Watermaster. District shall not be obligated to conduct a meter reading at any site until an Entry Permit has been executed by Watermaster and the applicable landowner. District shall provide and maintain the insurance specified in paragraph 7 of the Entry Permit (Exhibit 8 to the proposed Stipulated Judgment).

7. Cost

District will provide the services specified herein at a rate of \$45.63 per hour including field work, scheduling and reporting. In addition, the District will be reimbursed for costs incurred including mileage costs. A 10% charge will be applied to the total invoice amount (labor plus costs).

8. Termination of Contract

Either party may terminate this Contract by giving at least a 60-day written notice to the other Party.



IN WITNESS WHEREAS, the parties have entered into this Agreement as of the date stated below for each such Party.

Dated: \_\_\_\_\_

Borrego Springs Watermaster  
By: \_\_\_\_\_

Dated: \_\_\_\_\_

Borrego Water District  
By: \_\_\_\_\_

**Exhibit 1**  
**Meter Read Protocols and Required Documentation**

The purpose of reading meters is to collect and document the information needed to calculate total groundwater pumping for the water year (or any other time period of interest) at each active pumping well of the BPA Parties. It is critical that the meters are read accurately and that the meter read is properly documented.

To ensure accuracy of the meter read, the following protocol must be followed by the meter reader at each well:

- Make a hand written note, or key punch into excel file using a tablet or device, of:
  - BPA Party name
  - Well address
  - The last four digits of the meter serial number (SN)
  - Date and time of meter read
  - The meter read
  - The meter read units
  - Any challenges with reading the meter (e.g. face broken/cracked, no access, etc.)
- Take a time-stamped photograph of:
  - The meter make, model, and serial number
  - The well meter face that clearly shows the meter read and units of measure
- During the first meter read event, record the GPS coordinates of the well location to cross reference with the GPS coordinate data provided by the well owner.

At the completion of the meter reading event:

- Name each photograph with the following file name:
  - Last 4 digits of SN\_Date\_MeterInfo (e.g. 9999\_20200930\_MeterInfo)
  - Last 4 digits of SN\_Date\_MeterRead (e.g. 9999\_20200930\_MeterRead)
- Scan and save any hand written notes with the following file name:
  - Date\_MeterReadNotes (e.g. 20200930\_MeterReadNotes)
- Send photographs and scan of hand written notes (or excel file of notes) to Watermaster Staff

Attachment A1 is the form that should be used for the handwritten or electronic field notes. It will be provided to the meter reader by Watermaster as an Excel file and a PDF file. After the first meter reading event, the form can be updated to pre-populate the well owner and serial number information.

<b>Well #</b>	<b>BPA Party Name</b>	<b>Well Address</b>	<b>Meter SN - Last 4 Digits</b>	<b>Read Date (M/D/Y)</b>	<b>Read Time (AM/PM)</b>	<b>Meter Read</b>	<b>Meter Read Units</b>	<b>Challenges With Reading Meter?</b>
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								