

MEETING MINUTES

Borrego Valley Groundwater Basin: Borrego Springs Subbasin Sustainable Groundwater Management Act (SGMA) Advisory Committee (AC)

July 25, 2019 @ 10:00 AM – 2:30 PM

Location: Borrego Springs Library, Community Room, 2580 Country Club Rd., Borrego Springs, CA 92004

I. OPENING PROCEDURES

A. Call to Order

The meeting was called to order at 10:00 a.m. by Facilitator Meagan Wylie.

B. Pledge of Allegiance

Those present stood for the Pledge of Allegiance.

C. Roll Call of Attendees

Committee members: Present: Rebecca Falk, Bill Berkley, Gina Moran, Diane Johnson, Jim Wilson, Jack McGrory, Jim Seley

Absent: Gary Haldeman, Ryan Hall

Core Team members: Leanne Crow, County of San Diego Jim Bennett, County of San Diego
Lyle Brecht, BWD

Dave Duncan, BWD

Geoff Poole, BWD

Staff/Consultants: Meagan Wylie, Center for Collaborative Policy Trey Driscoll, Dudek, GSP Consultant
Wendy Quinn, Recording Secretary

Mason Einbund, County of San Diego

Public: Linda Haneline Stephen Ballas
Bill Haneline Michael Sadler, *Borrego Sun*
Mike Himmerich Cathy Milkey, Rams Hill

D. Review of Meeting Agenda

Meagan Wylie reviewed the meeting ground rules and Agenda.

E. Approval of January 31, 2019 AC Meeting Minutes

Upon motion by Member Johnson, seconded by Member Wilson and unanimously carried by those present, the Minutes of the January 31, 2019 AC Meeting were approved as written. Member Falk asked whether a water quality management agreement was included in the Proposition 1-funded agricultural metering program. Trey Driscoll reported he had done an initial inventory of all pumpers who volunteered for metering and was doing field studies. Some wells are being monitored for groundwater levels, and the owners could be asked whether they would allow water quality testing. Member Falk further inquired whether the de minimis pumpers had been notified of the Groundwater Sustainability Plan (GSP) development prior to the public review period, and Geoff Poole replied that they had. Member Falk asked whether the California Environmental Quality Act (CEQA) process as outlined in the GSP is no longer required due to the process described in the Stipulated Agreement that is currently under negotiation. Leanne Crow explained that the County is under Board of Supervisors' direction to continue to prepare a GSP, so it depends on the Board's action. The County is watching BWD's Stipulated Agreement process and believes it would be a good alternative submittal to the GSP, and noted the draft GSP serves as the foundational document of the Stipulated Agreement. Mr. Poole added that a decision had not yet been made regarding the stipulation, and more on this will be discussed under agenda item II. For now, the stipulation and the GSP discussions are being kept separate.

F. Updates from Advisory Committee Members

Member Falk read a prepared statement, which is attached and incorporated in these Minutes.

Member Johnson read a prepared statement, which is attached and incorporated in these Minutes. She added that the Integrated Master Plan to which Member Falk referred, spearheaded by the Stewardship Council to include socioeconomic, Severely Disadvantaged Community (SDAC) and land use issues, is just a beginning. It

is supported by the Local Government Commission, BWD, the Borrego Valley Endowment Fund and a number of individuals, and seeks to combine land use planning and water management.

Member Wilson referred to a July 7 article in the *San Diego Union-Tribune* regarding the Borrego Air Ranch and the fact that since they formed their own mutual water company, they are being required to reduce usage more than the BWD ratepayers. He felt that was unfair because the Air Ranch residents likely do not use any more water than the ratepayers, and are being asked to reduce usage by 75 percent. Jim Bennett explained that the GSP does not dictate the amount of reductions but rather includes a Groundwater Reduction Program to determine individual reductions for each pumper. The reduction program will be developed after GSP adoption. One goal is to have a water trading program to be developed after GSP adoption, so anyone including Air Ranch can purchase water rights so they do not have to reduce their water use.

Member Berkley asked whether the Air Ranch was assigned a Baseline Pumping Allocation (BPA). Mr. Bennett replied that Air Ranch was assigned a BPA. Stephen Ballas, an Air Ranch resident, asked why the Air Ranch did not have a representative on the AC. He pointed out that many Air Ranch residences are vacation homes, and there is not much vegetation. He felt they should be allowed a minimum amount of water under the Human Right to Water Law, and that they were being treated unfairly. Director Duncan felt it was an unintended consequence.

II. POTENTIAL NEGOTIATED AGREEMENT REGARDING GROUNDWATER MANAGEMENT AMONG PUMPERS

A. Discussion of possible impacts of Negotiated Settlement (Stipulation) on the Groundwater Sustainability Plan and the Remaining Process

Mr. Poole reported that the pumpers in Borrego Valley had been discussing an alternative process to the GSP, a stipulation/negotiated settlement. It was discussed publicly on July 9, 2019 at a BWD Board meeting, and has been in development since January. Mr. Poole explained that all parties are working to keep this process and the GSP development separate. The GSP is nearing completion, and will be needed regardless of what happens with the stipulation. It is the intent to finish the GSP, have a consensus vote of the AC in September, then present it to the Board of Supervisors and BWD Board of Directors for consideration of adoption in the fall. . However, if the stipulation is complete by this time, the GSP would be attached and incorporated as a *Physical Solution* to the stipulation, with slight modifications to ensure it is consistent with the stipulation. A Stipulation would still have to be reviewed by the Department of Water Resources (DWR) for compliance with SGMA. The BWD Board is anticipated to vote to approve a stipulated agreement or continue with the GSP adoption process in October.

Member Falk noted that once the terms of the stipulation are set, the GSP will be modified to fit into it. She recommended a public comment period at that point, and suggested an AC meeting following the Sponsor Group meeting on September 12 to review changes to the GSP, then another AC meeting two weeks later to vote. Mr. Poole agreed to consider it.

Mr. Bennett explained that these are parallel processes. The Groundwater Sustainability Agency (GSA) will continue to work on completion of the GSP, and concurrently BWD and the other pumpers will continue to negotiate a stipulation. The County would not be part of the stipulation. The GSA and AC were formed by a Memorandum of Understanding. Ms. Crow added that if the GSP is adopted, it still needs to go to DWR for review and approval, as would a stipulation. Director Duncan explained that the “red lining” of the GSP as part of the stipulated agreement would be details to make the GSP consistent with the stipulation, such as when mandatory metering would begin.

Member Wilson asked what parties were negotiating the stipulation, and Member McGrory listed himself, Rams Hill (recreation), the Agricultural Alliance for Water and Resource Education (AAWARE), BWD and the State Park. Mr. Bennett expressed his hope that the stipulation negotiations would continue, because the County sees several benefits, including expedient implementation of the Projects and Management Actions (PMAs), community representation on the governing board (watermaster), and local management of the Basin.

III. PUBLIC COMMENTS TO DRAFT GROUNDWATER SUSTAINABILITY PLAN

A. Review and Discuss Responses to Public Comments and any Associated Proposed Revisions to draft Groundwater Sustainability Plan

Mr. Driscoll narrated a slide presentation outlining the major public comments to the draft GSP and proposed responses. He noted that the 60-day review period ran from March 22 to May 21, 2019. All comments are available on the County website. One hundred eight letters were received from individuals, agencies and the Sponsor Group. The main categories were Baseline Pumping Allocations (BPAs), groundwater reduction, water trading, estimates of sustainable yield, Groundwater Dependent Ecosystems (GDEs), metering/monitoring, Severely Disadvantaged Community (SDAC) and implementation costs.

Comments concerning the BPAs emphasized that they are an unreasonable burden for small users, and that a lot of conservation has already been implemented. Some objected to the baseline period, 2010 to 2015. Many felt the municipal users should not be subject to the same level of reduction as recreation and agriculture. In response, Mr. Driscoll explained that the GSP does not mandate across-the-board equal reductions. The BPAs are designed to work with PMAs such as water trading and conservation. A member of the public expressed their opinion that the baseline period of 2010 to 2015 does not consider the significant water use reductions that occurred prior to that time, and punishes those who did so. Mr. Driscoll replied that the revised BPAs do take prior conservation into consideration. Cathy Milkey inquired about provisions to prevent water credit hoarding, and Mr. Driscoll explained that it would be addressed after GSP adoption. Member McGrory pointed out that farmers had also implemented a number of conservation measures, such as drip irrigation instead of flooding. Mr. Bennett noted that the comments and responses would be attached to the GSP as an appendix. A comment was made that the water use reduction program would jeopardize health and safety, reduce property values and increase water rates.

Mr. Driscoll summarized the proposed responses regarding BPAs. He explained that the program is designed to work with water trading, conservation and voluntary fallowing. These PMAs will support health, safety and property values.

As for the water trading program, there were concerns regarding hoarding, speculation, price fixing and collusion. In response, Mr. Driscoll indicated that the water trading program would be developed after GSP adoption and would address concerns raised at that time. Member Seley asked who would be in charge of the water trading program, and Mr. Driscoll replied that it would be the GSA. Ms. Wylie added that if a stipulation were selected, the watermaster would be responsible for implementation and overseeing such a program. The current MOU establishing the GSA is effective through GSP development, although there is no expiration date. During implementation, the GSA could continue via the MOU or a joint powers authority (JPA) could be developed. Member Berkley inquired whether a farmer who voluntarily fallows would get credit. Mr. Driscoll explained that he/she would get an additional BPA, which could be used on another farm or for the water trading program.

Another area of concern by the commenters was the accuracy of the estimated sustainable yield. The GSA has reviewed the comments and determined that the initial estimate remains appropriate based on the best available science – 5,700 acre-feet per year per USGS studies. Member Falk asked whether the measurement of storm recharge would be improved, and Mr. Driscoll replied that there is a USGS stream gage in Palm Canyon Creek, and flows in Coyote Canyon are also being manually monitored. Member Seley inquired about inflow from other basins, and whether it would continue to be studied. Mr. Driscoll explained that the measurements will continue and the model will be continually updated throughout GSP implementation.

The Committee broke for lunch at 12:10 p.m. and reconvened at 12:40 p.m.

Mr. McGrory suggested looking at the County or State grant for removal of tamarisk.

Mr. Driscoll went on to address comments on GDEs. Commenters felt that the GSP did not adequately address them, and disagreed that any detrimental effects were prior to 2015. Mr. Driscoll explained that the definition of GDEs in SGMA was used and that impacts to the honey mesquite bosque were a pre-1985 impact. Mesquite bosque has transitioned to being supported primarily by surface water. Graphs and charts illustrated that as groundwater continued to decline between 1985 to 2018, there was no nexus between groundwater

decline and vegetation health suggesting no nexus between current pumping and impacts to the honey mesquite bosque. Director Duncan suggested continued monitoring, and Mr. Driscoll replied that there were no plans to do so. Member Falk questioned whether it would be better to be proactive and monitor, rather than waiting for species to die. Member Johnson suggested monitoring by volunteers, perhaps the State Park Botany Society. Member Moran pointed out that Park volunteers could not work off Park property.

The next area of comments was well metering and monitoring. Input included a suggestion that the wording of the GSP should be strengthened to make it clear that metering and monitoring are mandatory. Mr. Driscoll responded that revisions have been made to emphasize that they are mandatory. The GSA will continue with its existing water quality monitoring. Member Falk asked whether the water quality monitoring had been expanded, and Mr. Poole replied that it is ongoing. BWD is applying for grants for new monitoring wells and/or retrofitting abandoned ones.

Mr. Driscoll reported there were comments that the GSP failed to consider SDAC interests. He responded that the GSA conducted extensive SDAC public outreach, worked with Environmental Navigation Services, and was seeking State funding to benefit the SDAC. Discussion followed regarding water quality. Member Berkley pointed out that septic tanks had caused water quality problems with some of the wells. Mr. Driscoll confirmed that they had, in the past (at least three in the '70s and '80s).

The final concern, GSP implementation costs, included estimated cost exceeding what is contemplated by SGMA for a small basin. Mr. Driscoll explained that the costs were a planning level estimate and will be refined as part of design and development of PMAs. Member Falk asked whether the California Department of Fish and Wildlife had commented. Mr. Driscoll replied that they had a concern regarding pup fish, but the pup fish are at least 18 miles away, near the Salton Sea. They also brought up GDEs along San Felipe Creek. Mr. Driscoll talked to the SGMA coordinator at the Department.

Mr. Driscoll's presentation will be posted on the County website.

IV. CLOSING PROCEDURES

A. General Public Comments

A member of the public asked whether there would be individual responses to the public comments, and Ms. Wylie replied that they would become an appendix to the GSP. Mr. Bennett hoped to have the draft GSP finalized by August 30. The Core Team plans to hold the next meeting in September and ask for a consensus recommendation. Mr. Bennett added that in the fall he hoped for GSP adoption and perhaps a stipulated judgment. Member Falk noted that the Sponsor Group meeting had been postponed to September 12, and Mr. Bennett agreed to coordinate the final AC meeting accordingly.

There being no further business, the meeting was adjourned at 1:45 p.m.

Statement, Rebecca Falk, GSP AC Meeting, 24 July 2019

The Draft GSP that the community has reviewed to date left virtually all of the controversial decisions to be made in a future time. When the stakeholder GSP Advisory Committee meetings were occurring, we were advised by the GSA, that is by representatives of San Diego County and the Borrego Water District, that there would be a fully transparent public process to determine the Projects and Management Actions (PMAs) that would govern the parts of the GSP that are mentioned there but were left to be determined in the future, like the water reduction program, fallowing program, and water trading program.

Now we understand that key parts of these have been negotiated in private, along with water rights. A private stipulation negotiation, now expanded to include terms for PMAs, goes against the intent of SGMA to redress existing inequities in water use and to fully involve the public in decisions about sustainable water management. To fulfill the intent of SGMA, any real consideration of the public interest has to be advocated for and insisted on at the local level. That can't happen if the public doesn't get to represent its own interests.

The process for drafting the Projects and Management Actions and any agreements that will determine the content of these programs must be conducted in a transparent way with public participation. The negotiations going on now in private also seek to establish a board that will implement the sustainability plan going forward. Such a board will have a huge impact on Borrego residences and businesses and the future of our town. The composition of this board and committees associated with it should not be negotiated behind closed doors.

To address these issues, the following will be essential:

1. The Water Master Board must have, in addition to the five members proposed so far, a second community seat held by a member of either the Borrego Springs Community Sponsor Group or The Borrego Valley Stewardship Council. A seventh seat should be held by a representative of the Anza Borrego Desert State Park.
2. The public will need to have time to read the fully drafted Stipulation Agreement once it is drafted and released, and time to comment on it, as well as to read and comment on any proposed changes to the GSP based on the Stipulation Agreement. The GSP Advisory Committee ought to review such changes to the GSP and consider public comments to those changes. The September meeting should be devoted to this review and consideration.
3. GSP AC Voting on a revised GSP based on terms of the Stipulation Agreement should happen at a meeting subsequent to the September meeting to allow time for final drafts of materials and comments to be reviewed. This will also allow members of the GSP AC and the Borrego Springs Community Sponsor Group to be present for this important vote, since a number of them are away during the hot months here, as are many members of the public, and do not plan to return until after September.

Both the GSP as it stands now and the terms of the Stipulated Agreement fail to address issues that are implicitly or explicitly addressed in SGMA. There is an effort already underway in our community to address these parts of SGMA that got left out by drafting an Integrated Master Plan for our town that will include socio-economic issues and land use planning with water planning, needs of our severely disadvantaged community, and equity and social justice considerations. The Stewardship Council has initiated this effort with broad-based participation from the community and the Borrego Water District. How can we reserve a place in the adjudication process before a judge for the results of this Integrated Master Plan?

Sincerely,

Rebecca Falk
Member, GSP Advisory Committee

Statement from the Borrego Valley Stewardship Council

To the Advisory Committee of the Borrego Valley Subbasin GSA

7/25/19

The Stewardship Council was established in 2014 in response to Borrego's water crisis and commitment to SGMA/GSP. The work of the Council seeks to position Borrego Springs as a model destination community in terms of sound economic planning, beneficial year-round tourism, world-class life-long learning, and exemplary stewardship of our cultural, social, and environmental heritage. <http://www.borregovalleystewardshipcouncil.org/mission.html>

In 2016 the Stewardship Council submitted a letter to the County of San Diego expressing support for fully embracing SGMA's mandate for sustainable water management thru a commitment to public participation, transparency, and equity; it offered to serve as a neutral convener in collaboratively identifying sustainability issues affecting the Park and Town.

<http://www.borregovalleystewardshipcouncil.org/letter-to-county-re-gsp.html>

Over the past 5 years the Council has convened a series of public workshops that has resulted in a Stewardship Council Charter endorsed by over a dozen local institutions committed to collaborative planning and governance processes as defined by the Charter. To date these efforts have resulted in a joint statement of intent via the Charter, a "Council" of signatories, a defined commitment to National Geographic's Geotourism initiative, and a community-driven watershed-based integrated master planning effort.

Website & Workshops: <http://www.borregovalleystewardshipcouncil.org/>

Signatories: <http://www.borregovalleystewardshipcouncil.org/get-involved.html>

Since the spring of 2017 a representative to the Stewardship Council has served on the Advisory Committee for GSA; the Council has thus gained extensive familiarity with water issues and possible solutions in the Valley.

With this letter the Borrego Valley Stewardship Council seeks meaningful participation/ representation in future water governance efforts. We request that the Charter, the Signatories, the Geotourism initiative, the integrated master planning initiative, as well as future collaborative initiatives be officially recognized as an official partner of Borrego Valley's GSP / SGMA compliance effort, including but not limited to input on Stipulated Agreement governance planning and processes.