

Borrego Valley Stewardship Council

P.O. Box 2078

Borrego Springs, California 92004

Agenda

October 30, 2020

4:00-5:15 PM

The Lawsuit Implementing the Stipulated Agreement

36 attendees total

Kathy Dice, 6194009616, Betsy Knaak, Cathay Milkey, Cindy, Dave Duncan, Steve Anderson, David Garmon, David Leibert, Diane Johnson, Dick Troy, Elke Wetekam, Geoff Poole, 7607674315, Harry Turner, Jack McGrory, James Dion, J Hardcastle, John Peterson, Karikarlsgodtkoskinen, Kathy Dice, Lee Rogers, Lee S, Lorry Seagrim, Lyle Brecht, Mark Jordensen, Martha Deichlet, Meet Panchal, Mike Himmerich, Polly Macuga, Rebecca Falk, Rich P, Samantha Adams, Susan, Tammy Baker, C Bainbridge, Jim Wermers, Terry Gerson

IA. LGC Zoom Orientation

- “Chat” - Chat function; sharing links/resources; how to save chat
- “Participants” - Raise hand; change your name
- View (top right corner)- Speaker vs. Gallery
- Holding all Q’s to the end

IB Welcome and Overview—Kathy Dice

- First plenary on COVID
- Second on Community Plan
- Intro to Leadership Team
- If you pump less than 2 AF per year you aren’t expected to reduce consumption; if you’re a BWD customer, we don’t expect you to cut abck water use; that’s the problem of BWD to find the water; conservation methods will be key, we’re all in this together - BUT individual consumers won’t have to cut back

II Presentations

- a) Steve Anderson, Attorney for the Borrego Water District
 - a. Lawyer for BWD
 - b. SGMA passage in 2014 starting advancing local water management
 - c. SD County and BWD drafted GSP, planned on adopting this from 2016-2019
 - d. In 2018, the major pumpers in the region (farmers, golf, BWD), came together to begin discussing if they could come to their own solution; wanted to avoid threat of lawsuits if ppl didn’t like how GSP working
 - i. Pumpers thought they could come up w/ a solution that makes sense for everyone and is durable

- ii. Settlement agreement - 22 pumpers
 - iii. Judgment is how basin will be operated; settlement agreement is how they're going to process the legal stuff
 - e. Adjudication cases must be processed in a certain way by law - a lawsuit needs to be filed
 - i. Lawsuit was filed in late January and notice of the lawsuit needs to be sent to every landowner in the valley - gives more info about the case and contact info where they can out more - up to the landowner if they want to participate
 - f. BWD has sufficient water in its column (assuming it uses the same amt of water as now) to last them 10 years
 - g. Customers who pump less than 2 AF of water you're 99% not going to be regulated; if you pump over that, you might be dragged into it
 - i. 6500 gallons/year = 2 AF
 - h. all judges in SD County are deemed to have a conflict of interest - shifted to OC judgements; hoping to be done sometime next year, as early as summer next year
 - i. "Water Master" will be formed - once judge signs the judgement, the Watermaster is an arm of the court, right hand person of the arm of the court, part of judicial branch, takes direction from the court
 - j. Kathy - grateful for the agreement and for having a plan
 - i.
- b) Dave Duncan, Chairman, Borrego Watermaster Board
- a. interim board that they hope will continue once the judgement passes
 - b. Chair of WMB, this is the governing body to manage the basin; typically, in adjudications someone is appointed to be the WMB; this group thought that role is best shared
 - c. 5 members:
 - i. Dave Duncan, BWD
 - ii. Mike Seley, ag
 - iii. Shannon Smith, recreational folks (golf)
 - iv. Mark Jorgensen, Community Rep
 - v. Jim Bennett, County of San Diego
 - d. At end of GSP planning process, it was likely there would be litigation; there were people who had concerns about BPAs & their water allocations; concerns that it would end in a lawsuit
 - e. Thought the GSP would have delayed the whole process and the pumping reductions; used the GSP as a platform to build from
 - f. Dave had been asked several times - why were negotiations held in private?
 - i. His answer: of the 22 parties, the BWD is the only one who serves the public interest; everyone else were private land owners; who held private property and gwr rights
 - ii. This was a negotiation between private property rights owners; not a public process; negotiating their own private property right in a way that was consistent w/ SGMA - there were public hearings, workshops, etc.

- g. Hopes people doesn't have major questions now; there have been lots of meetings, forums, and workshops
- c) Samantha Adams, Executive Director, Borrego Watermaster Board
 - a. Watermaster is an arm of the court
 - b. Judgement and GSP serve as a physical solution; judgement prescribes water rights and how WM is to manage the basin
 - i. BOD is responsible for implementing the judgement
 - ii. ED - serves the board as the liaison between the court, the communities, and the pumpers
 - c. Wildermith Enviro was hired to provide admin services; provides technical consulting services; judgement provides was WMB to convene TAC that can provide tech guidance to BOD
 - d. Duties prescribed to TAC - providing WMB with guidance on the technical process for determining the yield of the basin; "works at the pleasure of the board: - Sarah works with TAC and serves as a liaison between TAC and the Board
 - e. This year, lots of initial start up activities:
 - i. Putting together a website so there's a portal to find out info about WMB, meeting minutes, future meetings, public docs, contact info
 - f. Goal in the future is to improve our understanding of gwr in the basin
 - i. W/ in the judgement, everyone with a BPA must meter their well
 - g. Enviro working group will be convening soon - SW and GW interactions and GDE's; will convene in 2021 and begin SOW
- d) Mark Jorgensen, Community Representative to the Watermaster Board
 - a. Trying to gather opinions for community members; using BVSC as a forum for Q's and concerns about the WMB and the issues of water in Borrego
 - b. Almost all votes of the WMB are unanimous; meeting in the middle of the table
 - c. Lots of respect between members of WMB
- e) Mark's email: mjorgensen1951@gmail.com

III **Open Forum**—Martha Deichler

IV **Closing Remarks**—Kathy Dice

- This is an ongoing conversation as a forum; beginning of the next 20 years
- Feel free to contact BVSC or Mark J about water issues or anything other thing that might be of interest to the Forum; in looking around today, if you see someone who's not included, please let BVSC know; get as many

QUESTIONS

- To Mark J: Does the Stipulation lawsuit have something to do with the San Diego County Water Authority's (CWA) plan for a Regional Conveyance System (RCS) plan to run a

pipeline through Borrego to transport 280,000 acre feet of water from the Colorado River to San Diego?

- Mark: Borrego's plan and the mission of the WMB has nothing to do with the proposed pipeline; our mandate is that pumpers will reach sustainable use by 2040, aiming to reach sustainability before that
- Projection for the pipeline project - it's very expensive; there is no extra water in the CO River basin; projections are that with CC there will be less water
- To Mark J: If the CWA plans to build a pipeline to Borrego for importing water, why bother with a Stipulation that requires Borrego groundwater pumpers to reduce their usage 75%?
 - There's a legal mandate to reduce the pumping
 - Even if the pipeline were approved today, it wouldn't produce water into 2045; has nothing to do w/ WMB
 - The judgement is about the native water in the basin; water coming from CO river is imported; that's not what we're looking at
- To Dave D: The Watermaster is now in charge of managing the Subbasin. Managing the Subbasin includes protecting the water quality of the groundwater in the Basin. If that is the case, why is the Watermaster not actively doing something regarding the threat to the water quality of the basin from improperly abandoned wells?
- To Dave D: How will the Stipulation and its requirement for a 75% reduction in annual pumping by 2040 affect water rates municipal water users will need to pay now and in the future?
- To Steve: How soon will members of the public have access to pumping data and water quality measurements collected by the Watermaster?
- Rebecca Falk: For Steve, There seem to be a lot of parties beyond the stipulators filing to participate in the lawsuit? Is there any indication that any of them are challenging the SA?
 - No indication of ppl challenging it, barring one gentleman who send around an email to a bunch of folks w/ what he called a motion
 - 22 people in S.A.
 - 5 different parties other than those 47 in the case, only 5 people went to superior court, filed to become defendant in the case and served their paperwork correctly; that's all the filers
 - there were another 7-8 to BBK that they did want to be part of the case; can't file a case with the firm, need to file it with the court; those 7-8 others haven't gone through the court yet
 - Regardless, no one has raised significant objection - one person said, where I live, water levels haven't gone down; can't comment on this too much, but will we say we look at basin as a while;
 - Becky: OC website shows 81 participants that have filed w/ the court; a number of those are duplicates that are signatories; guessing there's more than 5-7
- David: For Steve, can you describe the anti-speculation provisions in the Stipulated Agreement?
 - if you're going to own water rights, for every 5 AF you own, you need to own an acre of land - this shows an investment in community, can't just buy up water

rights, need to be landowner; hasn't seen this in other basins; this is a novel approach; tying water to community

- Jack McGory:
 - Samantha is doing a great job, very responsive to farmers
 - Respected GSP that was adopted by water council; S.A. complies with GSP; community has done a good job of coming together and trusting each other
 - Farming communities are committed
- Rebecca: For Mark will you be serving on the Enviro Working Group of the Watermaster Board yourself?
 - Haven't solidified yet; been asked by a few folks to help moderate the meetings w/ enviro working group; expect that he will help put group together
 - Analyzing regional impact of water use with native ecosystem
 - Me
- John Peterson: We can not separate water quantity from water quality. Is the Water Master Board addressing water quality?
 - Dave Duncan: S.A. provides that current water quality monitoring program continues; this program must continue to be evaluated; T.A. group will engage in this; may make some changes in the future and make it more robust; WQ is an existential threat to the district; v co
 - 90% of monitoring wells are in the South of the basin; no monitoring wells in the north of the basin (one 1-2) - not collecting the data we need; existing WQ network doesn't help us; need to expand the network; not the # of the wells, its the location of the wells
 - Dave: completely agree; moving forward, while existing program continues; TAC and consultants will look to make the program more robust
 - It takes years
- Rich Penell, Road Runner Club - alternate on WMB; at each meeting; Becky F attends every single meeting; she's a great community rep; she writes an article for the Borrego Sun (once, twice a month); there's an article there; in lay(woman's) terms
- Diane: Please mention the Community Forum next week, on the Regional Conveyance System (pipeline and tunnel) proposed by the San Diego County Water Authority. It will be Thursday 11/5 from 1 - 2:30 p.m. RSVP at sdewa@sdewa.org for online attendance details.
- What if someone is a landowner and they haven't received a lawsuit letter?
 - BBK has a service that keeps track of the 4,000 landowners in the valley; coming close to the end of the process of mailing; next step is to post it onto the property (door, mailbox, etc.) - there are ~ 400 lot owners in Borrego that haven't returned a receipt of notice
 - It's in everyone's best interest to respond and drop their packet off at the post office; could get it to people another way
 - Names were sent out on the tax roll