

**Record of the Minutes of the
Beaumont Basin Committee Meeting of the
Beaumont Basin Watermaster
Regular Meeting
Wednesday, December 4, 2019**

Meeting Location:

Beaumont-Cherry Valley Water District
560 Magnolia Avenue
Beaumont, CA 92223

I. Call to Order

Chairman Arturo Vela called the meeting to order at 10:00 a.m.

II. Roll Call

<i>City of Banning</i>	<i>Arturo Vela</i>	<i>Present</i>
<i>City of Beaumont</i>	<i>Kyle Warsinski</i>	<i>Present</i>
<i>Beaumont-Cherry Valley Water District</i>	<i>Daniel Jagers</i>	<i>Present</i>
<i>South Mesa Water Company</i>	<i>Dave Armstrong</i>	<i>Present</i>
<i>Yucaipa Valley Water District</i>	<i>Joseph Zoba</i>	<i>Present</i>

Thierry Montoya was present representing legal counsel for the Beaumont Basin Watermaster (BBWM). Hannibal Blandon and Ben Lewis were present as engineers for the BBWM.

Staff present were: Mark Swanson, James Bean, Daniel Baguyo and Erica Gonzales from BCVWD.

Members of the public who registered and / or attended were: John Covington and William Wood.

III. Pledge of Allegiance

Chairman Vela led the pledge of allegiance.

IV. Public Comments:

Mr. William Wood of the Sharondale Homeowners Association advised the Committee there are 220 homes in the development with two wells and one tank. He explained that the development has come close to using its water allotment of 200 acre-feet (AF) and has cut back, but has now been told they no longer have 200 AF. He asked who has the authority to take the water away from the residents, and why. Mr. Wood said he has been advised that if the area does not cut back its water use to 154 AF they will be fined, and water use is increasing. He posited that this is unfair. Any fine for usage over 200 AF

would be understood, he said, but legally there is documentation for 200 AF. No legal documentation has been presented to the community. He requested an answer, including reasons other than new development.

Counsel Montoya said he would look into it and contact Mr. Wood.

V. Consent Calendar

It was moved by Member Zoba and seconded by Member Jagers to approve the Meeting Minutes of the following dates as amended:

1. Meeting Minutes for October 2, 2019

AYES:	Jagers, Armstrong, Vela, Warsinski, Zoba
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.
STATUS:	Motion Approved

VI. Reports

A. Report from Engineering Consultant – Hannibal Blandon, ALDA Engineering

No report.

B. Report from Hydrogeological Consultant – Ben Lewis, Thomas Harder & Co.

Mr. Lewis updated the Committee on the development of the Return Flow Accounting Methodology using individual water delivery accounts. He reminded the Board about Change Order #1 for out-of-scope work to tie 10,626 water accounts to APNs. He presented the requested detail on the accounts: 3,760 from BCVWD, 6,866 from Banning.

Substantial comments were received on the draft Tech Memo submitted at the last meeting, Lewis reported, and a Change Order will be submitted to address them. He said the Tech Memo will be available at the next meeting.

Mr. Blandon added that Harder and Associates is in the process of preparing an additional scope of services to address additional Committee requests. It will be submitted in February.

C. Report from Legal Counsel – Thierry Montoya, Alvarado Smith

Mr. Montoya reported that a draft court motion was prepared for a new member and alternate for the City of Beaumont and is still waiting for declaration.

Discussions were held with Dan Jagers and Joe Zoba regarding the Form 5 and reporting of water that has been transferred pursuant to Oak Valley Partners transfer agreement to Yucaipa Valley, and Mr. Blandon's accounting of acre-feet transferred in 2018, and the proposal to transfer all in 2018 as opposed to the balance of the water rights in 2019 based on the execution date and terms set forth in Form 5. Discussion will be held under Item VII - F – Annual Report.

VII. Discussion Items

- A. Status Report on Water Level Monitoring throughout the Beaumont Basin through November 19, 2019

Recommendation: No recommendation.

Mr. Blandon advised there have been no changes on the number of monitoring wells. Minimal change has been recorded at the northwest portion of the basin, however Oak Valley No. 5 continues to decline over the last few months even though it has not been used for two months.

Downstream of the Noble Creek spreading basins, water levels continue to rise, he said. No changes were reported at the southwest portion of the basin, but some decline was noted at the Summit Cemetery wells due to localized pumping, he said.

M8 in Banning has declined 33 feet since 2015 and continues to decline. Banning M9 has been flat. Blandon reminded the Board that he reported a 3-foot drop at Tukwet coinciding with the Ridgecrest earthquake however there were no earthquakes in this area reported by USGS at that time.

Mr. Jagers added that BCWVD has returned to wintertime operation at Well 29 and is trying to control the mound on the east side of the basin.

- B. A Comparison of Production and Allowable Extractions through October 2019

Recommendation: No recommendation - For informational purposes only.

Mr. Blandon presented a comparison of production vs. rights in 2019. A significant amount of water (11,500) has been imported by BCWVD, he said. The City of Banning has exceeded its production rights and is at 118 percent of its allotment.

South Mesa is at 55 percent, and YVWD is at about 56 percent, Blandon reported. Member Vela noted that normally Banning's production is lower, but several wells were down this year.

- C. Independent Accountant's Financial Report of Agreed-Upon Procedures for the Beaumont Basin Watermaster

Recommendation: That the Watermaster Committee receives and files the Independent Accountant's Financial Report for the period ending June 30, 2019.

Mr. Zoba presented the annual financial review of the records of the Treasurer and pointed out a typo on the second page. He noted that expenses and revenues have tapered but much of it is based on timing of annual reports and how consultant work rolls over from one fiscal year to the next. He recommended receiving and filing the report.

It was moved by Member Jaggars and seconded by Chair Vela to receive and file the Independent Accountant's Financial Report for the period ending June 30, 2019 and approved by the following vote:

AYES:	Armstrong, Jaggars, Vela, Warsinski, Zoba
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.
STATUS:	Motion Approved

- D. Discussion Regarding Task Order No. 20 with ALDA Inc. for the Preparation of the 2019 Consolidated Annual Report, Estimate of the Basin Safe Yield, Update of the Groundwater Model, and Associated Consulting Services for 2020.

Recommendation: That the Watermaster Committee approve Task Order No. 20 for a sum not to exceed \$95,970.

Mr. Bandon reminded the Committee that this is a new task including basic services provided to the Watermaster. This is the same cost as the last two years, Bandon noted. There are no changes in the scope of work and no change in fees.

It was moved by Member Jaggars and seconded by Member Warsinski to approve Task Order No. 20 for a sum not to exceed \$95,970 and was approved by the following vote:

AYES:	Armstrong, Jaggars, Vela, Warsinski, Zoba
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.
STATUS:	Motion Approved

E. Discussion Regarding Task Order No. 21 with ALDA Inc. for the Installation, Maintenance and Data Collection of Water Level Monitoring Equipment in 2020

Recommendation: That the Watermaster Committee approves Task Order No. 21 for a sum not to exceed \$ 21,520.

Mr. Blandon explained the task providing services for data collection for up to 18 wells and reporting to the Watermaster. This is the same cost as the last three years, he noted. The scope of work and costs are the same.

It was moved by Member Jagers and seconded by Member Armstrong to approve Task Order No. 21 for a sum not to exceed \$ 21,520 and was approved by the following vote:

AYES:	Armstrong, Jagers, Vela, Warsinski, Zoba
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.
STATUS:	Motion Approved

F. Status Report of the 2018 Annual Report

Recommendation: That the Watermaster Committee provides direction as to the completion of the 2018 Annual Report.

Mr. Blandon reminded the Committee of discussion on transfer of water rights from Oak Valley Partners to Yucaipa Valley Water District (YVWD) and changes in documentation of transfers per Resolution 2019-02. These issues have delayed the completion of the annual report, he stated. To complete the report and document actions and events that occurred, Blandon recommended adjusting water rights retroactively in 2019 or 2020.

Chair Vela noted the recommendation is for Committee direction in order to finalize the report, although there may be other related discussion items.

Mr. Montoya said that he was advised by Mr. Jagers of concern regarding a Form 5 that indicated YVWD would be taking credit for all of the overlying parties' rights in 2018. Montoya and Zoba discussed the Form 5 and its intent for the overlying party to transfer all remaining water rights in bulk at once, he said. Foundationally, Montoya continued, an overlying party may divest themselves of an interest in their rights to another party as long as it is clearly manifest. Also, this is a contract

where the parties' intent is clearly set forth, is not ambiguous, and there is a trigger point.

Mr. Montoya indicated problems with the Form 5 document and said he does not think it properly serves the parties' intents: instead of incremental transfers, to transfer all water now. The document does not properly represent that intent as it is awkwardly written and is conditional. All the rights cannot be accounted for in 2018, he said, only 180.4 to date. The balance should be accounted for in 2019, he explained. Montoya said he does not understand how all the rights can be claimed in 2018 as it is a contrived interpretation of the agreement and it should be effective and enforceable.

Mr. Zoba asked Mr. Montoya why the Committee was advised to work through a Form 5 instead of adopting the annual report earlier this year with the partial transfer. The goal of the Watermaster is "to maintain an accounting of acquisitions by appropriators of water otherwise subject to overlying water rights as a result of the provision of water service by an appropriator," Zoba read, and said it is nothing more than an accounting body. He explained the agreement and stated that a Form 5 has been filed.

Mr. Jagers added that the Committee revised Form 5 and adjusted it back to only the judgment which allowed for the transfer of rights once water service was provided. Resolution 2017-02, Jagers continued, outlines the intent of the YVWD to transfer the rights of confirmed water service, which has not been discussed. He said he is not opposed to one way or another but there are four transfer letters that accumulate 180.4 AF until 2018 and now that Form 5 has been revised should be credited in the 2018 report. Mr. Jagers indicated he had contacted Mr. Montoya due to uncertainty and concern about procedure.

Resolution 2017-02 is about consolidating water rights onto specific parcels, Zoba noted. The process was questioned as not being consistent with the judgment, and that is what held up the report, he explained. The Committee has received a Form 5 and its job is to account for the water. Recommendations of the consultants do not properly account for it, Zoba added. Chair Vela noted detail of previous correspondence related to the water allocation which has been consistent with Reso 2017-02 and indicated the question was when the water would move from the earmarked column to the transferred column, not that there was opposition to the incremental listing of the transfers. He said the submitted Form 5 seemed to go against the process that the Committee had been following.

Member Zoba drew attention to Resolution 2019-02 which was written to be consistent with the judgment. That Reso plus Form 5 will now be used any time there is a transfer with no discussion; and that is how the 2018 annual report should be recorded, he said. Delaying will result in a 2018 report that overstates the amount of water Oak Valley gets.

Mr. Montoya noted that a Form 5 had already been agreed upon but had not been used. He said he did not have concerns about the incremental transfer because that was the intent of YVWD's original agreement. Transferring the balance is not a concern either, Montoya continued. Zoba objected. Discussion ensued.

Mr. Blandon pointed out that ultimately, YVWD would receive all its water rights and be made whole. He noted that the way the 2018 report is closed will affect 2019. In response to Member Zoba, Mr. Blandon advised that filing the 2018 report with figures subject to protest is inconsequential. He noted that this issue has been discussed for four or five meetings and is still unresolved. In the past, when changes have been made to previous reports, most have been related to production due to new or updated information, he noted. The report can reflect the receipt of a valid Form 5, and explanation. He agreed with Zoba that this is an accounting issue.

The decision to be made on what tables and figures to include in the report must be made by the Committee, as the report is the Watermaster's, Zoba pointed out. Mr. Warsinski indicated support for leaving the 2018 report as is and cleaning it up in 2019.

Mr. Montoya reiterated that the language of the submitted Form 5 should be clarified to correctly manifest the intent between the parties, but such changes cannot be made by the Committee, they must be made by the Parties.

Member Zoba moved to provide a letter from Mr. Ohanian of Oak Valley Partners stating his intention to transfer all water rights and finish the 2018 Report consistent with the Form 5 as filed and per John Ohanian's statement. There was no second to the motion.

Member Jagers noted that everything done to date is consistent with achieving resolution and crediting the 180.4 AF and suggested the report is ready for approval. Jagers reminded the Committee that BCVWD voted No on Resolution 2017-02 and noted that all action by YVWD's Board was a consistent approach. Now, the process seems out of synch, Jagers said. Chair Vela noted there were issues with the incremental approach, but the issues were worked through and the draft of the previous annual report was accepted. He said he does not agree with back-dating the submitted Form 5.

Chair Vela declared the motion failed due to lack of second and asked if there were further comments.

Mr. Jagers reviewed the recommendation that the Watermaster Committee provide direction to the consultant as to the completion of the 2018 Report.

It was moved by Chair Vela and seconded by Member Jagers to direct the consultant team to complete the 2018 annual Report documenting

issues and activities that took place during that calendar year. The motion was approved by the following vote:

AYES:	Armstrong, Jagggers, Vela, Warsinski
NOES:	Zoba.
ABSTAIN:	None.
ABSENT:	None.
STATUS:	Motion Approved

Mr. Blandon clarified that the engineers would complete the report based on what happened in 2018, including the table and body using the 180.4 AF. The remainder will be applied to the tables in 2023 to the appropriators based on the percentage of their right. A footnote or paragraph will explain that this issue remains to be resolved and that YVWD would like to have the entire amount of 1,500 AF and this issue continues to be discussed in 2020 for inclusion in the 2019 report.

Mr. Blandon explained that this decision constitutes the basis for the 2019 report which will be presented approximately two months from now. The 2018 report will indicate that YVWD has 180.4 AF and in 2019 it will say the YVWD has an additional 1,100 AF or whatever the number might be, thus making YVWD whole.

Mr. Zoba suggested waiting for any further change to the Form 5 or receipt of additional correspondence to complete the 2019 draft. Mr. Jagggers pointed out comment from Counsel Montoya that language on the submitted Form 5 needs to be revised to be an accurate statement. He stressed consistency and suggested a look back at Resolution 2019-02 and an agreed-upon procedure. Mr. Zoba stated that a Form 5 is filed, and it conforms to Resolution 2019-02 and the intent is there. The bottom line is that two outside parties agreed to transfer water. All needed to report back to the Committee is to file a Form 5, Zoba said.

Mr. Montoya indicated his concerns were for clarity and intent. He said the Form 5 submitted by YVWD has the entirety of Oak Valley Partners' overlying water rights but what is to be credited on October 9, 2018 is unclear from the document. Form 5 suits the purposes of the Committee and the language can be modified accordingly.

Chair Vela noted the agenda item has been satisfied although there are additional things to work out for the 2019 report.

VIII. Topics for Future Meetings

- A. Development of a methodology and policy to account for new yield from capturing local stormwater in the basin
- B. Development of a methodology and policy to account for groundwater storage losses in the basin resulting from the spreading of additional water sources

- C. Development of a methodology and policy to account for recycled water recharge
- D. Develop a protocol to increase the accuracy and consistency of data reported to the Watermaster
- E. Discussion of return flow credit and how it might be managed

IX. Comments from the Watermaster Committee Members:

None.

X. Announcements

- A. The next regular meeting of the Beaumont Basin Watermaster is scheduled for Wednesday, February 5, 2020 at 10:00 a.m.

XI. Adjournment

Chairman Vela adjourned the meeting at 11:30 a.m.

Attest:



Daniel Jagers, Secretary
Beaumont Basin Watermaster