

# **Borrego Water Coalition**

## **Memorandum of Understanding**

March 29, 2013 (Revised December 5, 2013)

### **1. THE COALITION**

1. The Borrego Water Coalition (BWC) is a thought leadership forum whose responsibility is advisory. The BWC has created a working group that represents all constituencies in the Valley. Each constituency represented by the BWC has a significant stake in Borrego Valley that is potentially at risk from the continued overdraft of the Borrego Valley Groundwater Basin (BVGB);
2. BWC membership shall constitute signatories to this Memorandum of Understanding (MOU). The membership makeup of the BWC is listed in Section 2 below. A quorum for decision-making shall consist of two-thirds of the voting members (rounded down to the nearest whole number).
3. Members agree to abide by the Conditions of Participation as outlined in Appendix A of this MOU. Members further agree that decision-making shall be by consensus as outlined in Appendix B. For example, the consensus process outlined in Appendix B shall be used for developing recommendations, approving meeting notes, adding members and making changes to this MOU;
4. Participation in no way suggests the waiving of either individual or constituency rights or privileges. For example, participation in no way suggests that the BWC, in either its deliberations and/or its recommendations shall constitute any legal resolution of the issue of water rights. Such legal determination is outside of the scope of the BWC. Thus, it shall not be inferred directly or indirectly that participation in this group or decisions made by it, either by active or passive approval shall have any bearing on legal issues relating to water rights. Additionally, members acknowledge that they have no authority to bind their respective constituencies by any decisions or recommendations of the BWC. Members further acknowledge that the BWC's recommendations are in no way meant to abridge the statutory or fiduciary responsibilities of any public regulatory agency.

### **2. MEMBERSHIP**

The BWC is comprised of the following constituency representatives who have agreed to contribute their time and energy to this activity:

Agricultural Users - 4 representatives

Recreational Users – 3 golf course representatives + 1 RV Park representative

Borrego Water District & District Ratepayers – 3 representatives

School District – 1 representative

Public Space (Christmas Circle Park) – 1 representative

Commercial Businesses (Chamber of Commerce) – 1 representative

Resorts & Lodging (La Casa del Zorro) – 1 representative

Watershed and Desert Ecosystems - Anza-Borrego Desert State Park (Park) – 1 representative + Anza-

Borrego Foundation (ABF) – 1 representative

San Diego County Planning and Development Services (PDS) – 1 non-voting representative

California Department of Water Resources (DWR) – 3 non-voting representatives

# Borrego Water Coalition

## Memorandum of Understanding

March 29, 2013 (Revised December 5, 2013)

### 3. PREAMBLE, VISION, & MISSION

*Preamble:* The consequential risks of dewatering the basin may include: deleterious impacts to the Park, loss of economic growth opportunities; reduction of recreational alternatives; collapse of real estate values; and loss of agricultural productivity in the Valley; with the ultimate loss of our vibrant community.

*Vision:* Water for the future!

*Mission:* To develop recommendations for establishing a plan for managing the BVGB.

#### What comprises a "Managed Basin Plan"?

- 1) A negotiated, agreed-upon *plan* to address the overdraft that is feasible, quantifiable, and measurable, that describes in writing what, by when, for how much, who is accountable, what metrics will be used to measure success, and includes the process to make mid-course corrections from the initial plan;
- 2) A deliberative body with the *authority* to enforce the negotiated plan: this enforcement authority is typically established either with legislation or through the courts;
- 3) A *mechanism* to pay for implementing the plan. The *plan* must have adequate funding to produce desired, agreed-upon results.

### 4. GOALS & OBJECTIVES

*Goal 1:* To develop recommendations for managing the Borrego Valley Groundwater Basin including: what needs to be done, when, by whom, at what cost and benefits, under what authority, how will results be measured and assessed.

*Goal 2:* To make certain the analytical basis for choosing basin management strategies to achieve basin management objectives meets the reasonable economic feasibility test. (That is, do we understand in sufficient detail the economic costs and benefits of a particular strategy and are these strategies prioritized as to expected costs and benefits?)

*Goal 3:* To recommend a means for financing the implementation of the managed basin plan.

*Goal 4:* To recommend an appropriate authority to enforce the basin management plan.

# Borrego Water Coalition

## Memorandum of Understanding

March 29, 2013 (Revised December 5, 2013)

*Objectives:*

TASK	DESCRIPTION	DUE DATE
1	Agree to an MOU that defines a collaborative planning process sufficiently acceptable to DWR so that DWR will approve ongoing professional facilitation support and there is no gap in facilitated meetings of the BWC.	June 30, 2013
2	Develop recommendations for a road map that identifies options, actions, issues, timeframes, and milestones for managing the BVGB that the respective constituencies of the BWC members can review and provide feedback on.	November 7, 2013
	Public Meeting to present and solicit input on the recommended roadmap.	January 14, 2014
3	Produce a summary draft recommended road map for managing the BVGB for review by all stakeholders of the BVGB.	February 27, 2014
4	Public Meeting to inform and solicit input on draft road map.	March 26, 2014
5	Adopt the final road map.	June 26, 2014

♦ ♦ ♦

# Borrego Water Coalition

## Memorandum of Understanding

March 29, 2013 (Revised December 5, 2013)

### APPENDIX A: CONDITIONS OF PARTICIPATION

To achieve the mission of the BWC, members agree to the following conditions for working together:

- Commit to finding solutions for the common good to reduce overdraft in the BVGB;
- Commit to the BWC process timetable, which will require participation in an intensive process involving regular attendance at monthly meetings and response to short deadlines;
- Commit to working openly, honestly, and collaboratively with other BWC members;
- Understand that different stakeholder interests must be considered to adequately evaluate all reasonable scenarios for resolving the overdraft;

- When a meeting, or part thereof, is held under the ***Chatham House Rule***, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

♦ ♦ ♦

# Borrego Water Coalition

## Memorandum of Understanding

March 29, 2013 (Revised December 5, 2013)

### APPENDIX B: REACHING CONSENSUS FOR RECOMMENDATIONS

In working to achieve consensus, members will adhere to the principles of good faith negotiation. This includes sharing information (or explaining why it cannot be shared), seeking to understand the concerns and perspectives of other members, and developing solutions that include the range of interests participating in the BWC. Every effort will be made to announce in advance when a recommendation or decision is anticipated at a meeting. Members are encouraged to attend to hear the discussion and thus make a fully-informed decision.

#### Levels of Consensus

Consensus is achieved if all participants indicate that they are at Levels 1-4 (not Levels 5 or 6).

1. I can say an **unqualified 'yes'** to the decision. I am satisfied that the decision is an expression of the wisdom of the group.
2. I find the decision **perfectly acceptable**. It is the best of the real options we have available to us.
3. I can **live with** the decision. However, I'm not especially enthusiastic about it but I do not have anything to add to the discussion concerning this decision.
4. I do not fully agree with the decision and need to register my view about it. However, I do not choose to block the decision and will **stand aside**. I am willing to support the decision because I trust the wisdom of the group.
5. I do not agree with the decision and feel the need to **block** the decision being accepted as consensus. I will share my reason with the group.
6. I feel that we have no clear sense of unity in the group. We need to do more work before consensus can be achieved.

*Collaborative Problem Solving Approach:* (a) Develop a common definition of the problem; (b) Develop objective criteria for evaluating the potential solution; (c) Generate alternative solutions based on the problem definition; (d) Evaluate alternatives using objective criteria; (e) Seek consensus on alternative(s) that best meet agreed-upon criteria.

♦ ♦ ♦

# Borrego Water Coalition

## Memorandum of Understanding

March 29, 2013 (Revised December 5, 2013)

### APPENDIX C: STAKEHOLDER REPRESENTATION

It is acknowledged that all potential stakeholders may not be directly represented today and that the definition/scope of representation for each group may not be ideal. The BWC is intended to evolve as information and resources are made available. At this point, the BWC has made a best effort to identify and reach out to all identifiable constituencies and to provide representation<sup>1</sup>.

The ‘weight’ of representation of the BWC was not appropriated by any quantitative measure (i.e. amount of water usage, population of stakeholder constituency, degree of economic impact to the Valley, etc.), but was developed by a process of aggregating those individuals that were identified as being key to the process that were willing to devote their time, resources, and expertise to this effort.

<b>Stakeholder(s)<sup>2</sup></b>	• Farming / Agriculture	• Recreation	• District Rate Payers • Registered Voters	• Family / Community	• Community • Tourism	• Commerce & Business	• Tourism/ Guest Services	• Watershed & Desert Ecosystems
<b>Communication Channel(s)</b>	• Ad Hoc <sup>3</sup> • AWAARE	• Ad Hoc	• Ad Hoc • Existing Processes <sup>4</sup> • Town Hall Meeting(s)	• Ad Hoc • Existing Processes	• Ad Hoc	• Ad Hoc • Existing Processes • Press Releases <sup>4</sup>	• Ad Hoc	• Ad Hoc
<b>Contact<sup>3</sup></b>						Linda Haddock <sup>5</sup>		
<b>Working Group Membership</b>	Agriculture (4)	Golf Course (3) RV Park (1)	Borrego Water District (3)	School District (1)	Public Space – Christmas Circle Park (1)	Chamber of Commerce (1)	Resorts & Lodging (La Casa del Zorro) (1)	Anza-Borrego Desert State Park / Anza-Borrego Foundation (ABF) (2)
<b>Support (non-voting representation)</b>	Department of Water Resources (DWR) - Facilitation (2) - Subject Matter Expertise (1) San Diego County Planning and Development Services (PDS) – Subject Matter Expertise (1)							

# **Borrego Water Coalition**

## **Memorandum of Understanding**

March 29, 2013 (Revised December 5, 2013)

### FOOTNOTES

1. One group that has been specifically identified, but a solution for representation is unclear, are those with private wells and septic system. This population is estimated at around 75. This group is not insignificant, but a process to engage them, at this point is unclear.
2. There is likely to be (intentionally) overlap of stakeholder groups. The intent is to give stakeholders multiple points of contact to provide their feedback. Coalition members are expected to solicit and aggregate feedback for presentation to the Working Group (including proposing adding new members to the group, as appropriate). Individuals (or groups) that are unable to define their appropriate contact can reach out to Linda Haddock at the Chamber of Commerce for direction.
3. All constituencies have an ad hoc communication process; as supported by a formal designation of a contact person for each group.
4. Many of the members already have established communication channels with their constituencies. Those processes will remain intact, but may be further enhanced through ad hoc communications or additional forums.
5. Linda Haddock is the contact for the Chamber of Commerce (Commerce & Business) and also for general inquiries regarding the Borrego Water Coalition (BWC).

♦ ♦ ♦

# Borrego Water Coalition

## Memorandum of Understanding

March 29, 2013 (Revised December 5, 2013)

The following addenda to the Memorandum of Understanding were adopted by the Coalition on (date).

### ADDENDUM A: ORGANIZATIONAL STRUCTURE

1. The “Full BWC” consists of all the signatories to the MOU. These signatories constitute the members of the BWC. The role of each member is described in Section 6, Roles and Responsibilities.
2. The Coordinating Committee consists of a small subset of members who have the time and energy available to work with the facilitator to prepare meeting agendas, review draft meeting materials and work products, help develop meeting materials if appropriate, contact guest speakers, and other meeting preparations.
3. The BWC may choose to create work groups to advance specific tasks outside of BWC meetings. Work groups may include but are not limited to communication and technical joint fact-finding. The BWC will specify a clear purpose for any work group and, if applicable, specify the tasks or work products and corresponding timeline. All work groups will provide regular status updates on their activities at BWC meetings. All work products will be submitted as drafts to the BWC for their review, comment, and adoption. While work groups may make day-to-day decisions to advance their work, the work groups have no final decision-making responsibility.

### ADDENDUM B: ROLES & RESPONSIBILITIES

To achieve the mission of the BWC, members agree to the following roles and responsibilities:

1. **Coalition Members:** Members (1) discuss and make recommendations on how to address the risks from continued overdraft of the Borrego Valley Groundwater Basin, including but not limited to the development of a groundwater management plan; (2) contribute expertise, data, and information to clarify issues, assumptions, options, and considerations; (3) communicate information to and from their fellow residents, organizations, agencies, and/or other peers; (4) act in a manner that enhances trust among all partners and interested parties; and (5) negotiate in good faith, meaning sharing information (or explaining why it cannot be shared), seeking to understand the concerns and perspectives of other members, and developing solutions that include the range of interests participating in the BWC.
2. **Department of Water Resources:** DWR representatives (1) provide input and feedback on meeting agendas, meeting materials, and the substance of any policy, planning, scientific, or technical documents; (2) contribute expertise, data, and information to clarify issues, assumptions, options, and considerations; (3) communicate information to and from colleagues within the Department; (4) act in a manner that enhances trust among all partners and interested parties; (5) support good faith negotiations by BWC members; (6) provide logistical support for the meetings, including offline preparations; and (7) serve as a technical liaison to the U.S. Geological Survey.
3. **Technical Support:** Consultants, guest speakers, and other subject matter experts (1) provide input and feedback to the BWC and its work groups, per the role and/or scope of work requested or



# Borrego Water Coalition

## Memorandum of Understanding

March 29, 2013 (Revised December 5, 2013)

contracted by the BWC; (2) contribute expertise, data, and information to clarify issues, assumptions, options, and considerations; and (3) act in a manner that enhances trust among all partners and interested parties.

4. **Facilitators:** The facilitator(s) (1) provide impartial leadership to the design and execution of a fair, transparent, inclusive, and effective collaborative process, including full group and work group meetings; (2) help the BWC stay within the scope of its MOU and adhere to the protocols and obligations therein; (3) ensure that all interested parties have the ability to voice their concerns and recommendations in the process as a whole; (4) develop meeting agendas in collaboration with the Coordinating Committee; (5) document meeting discussions through high-level meeting summaries, including action items, agreements, and key points; (6) support members in building their capacity for interest-based negotiation and management of their own meetings and activities; and (7) serve as a confidant for members who wish to express concerns privately. While the facilitator will advocate for the highest standards of a collaborative process, the facilitator will remain neutral with regard to the content negotiated, and not provide advice or opinions on the content. If a member has concerns about the neutrality or performance of the facilitator, s/he should first speak with the facilitator, and then the full group.

### ADDENDUM C: MEMBER OBLIGATIONS AND PROTOCOLS

To achieve the mission of the BWC, members agree to the following:

1. Members agree to read meeting materials in advance of the meetings. The facilitator and support staff will make every effort to provide materials five to seven days in advance of the meetings, with the exception of presentation slides. Any materials provided in the room the day of a meeting will be distributed electronically thereafter, for members' file records.
2. Members deemed "active" must attend at least 75% of meetings within the past 12 months, or have sent an alternate in their stead. Members who are unable to meet attendance requirements will be deemed "inactive" and will not be consulted in their absence before decisions are finalized through the consensus or voting decision-making procedures. The facilitator(s) will record attendance at each meeting.
3. Alternates may be identified by individual members who cannot attend a meeting. To ensure continuity of discussions and advance problem-solving, it is the responsibility of the member to brief their alternate prior to the meeting on historical discussions, materials, and decisions regarding the various agenda items. If during the meeting the alternate seeks information on a topic previously discussed by the group, the facilitator will help the alternate find another member who can bring them up to speed on the topic at a break or after the meeting.
4. Those seeking membership must submit in writing their request to join the BWC. Requests will be reviewed by the BWC and a consensus decision made about whether to accept the requester as a new member.
5. New members must commit to reading historical meeting summaries and materials to ensure they understand previous BWC decisions and information being analyzed, before they participate in

# **Borrego Water Coalition**

## **Memorandum of Understanding**

March 29, 2013 (Revised December 5, 2013)

decision-making. This is to ensure that new members make informed decisions based on the prior work of the group.

6. Members may choose to leave the BWC at any time by providing a written statement of resignation of their membership to the facilitator and/or BWC.

### **ADDENDUM D: PRESS, MEDIA, AND PUBLIC REPRESENTATIVE PROTOCOL**

1. Only statements adopted by the BWC can be quoted, provided, or referenced on its behalf. No individual person can speak for the BWC unless they are working directly from a statement adopted by the group.
2. The BWC will periodically (or regularly) approve statements to keep the public, press, and media informed of its work, agreements, and progress. The BWC will rely on a work group to draft these statements for BWC review. Members can speak freely about these statements. These statements may not be edited or amended by individual members after they have been adopted by the BWC.
3. If a member (1) is contacted by the press, media, or an external party, or (2) is submitting information to or requesting engagement with a public agency or representative, or (3) is briefing residents, organizations, agencies, or other groups, and (4) the BWC has not adopted a statement for this purpose, the member will:
  - a. Clarify that they are speaking only for themselves, not for the BWC;
  - b. Express their concerns and support in ways that are consistent with their expressions in BWC meetings;
  - c. Not characterize or summarize the views or statements of other members or groups. If the press or media seeks to know the views or statements of other members, the contacted member should refer them directly to the member(s) about whom the inquiry has been made.
  - d. Not use the press or media as a vehicle for negotiation.

### **ADDENDUM E: COMMUNICATION AND REPORTING PROTOCOL**

To achieve the mission of the BWC, members agree to the following:

1. The overriding consideration in all communications by BWC members with the public is to honor, sustain, and support a constructive discussion process.
2. Members are expected to report back to her or his respective constituency to keep them aware of progress and issues that have been raised in meetings, and to use the Press and Media Protocol when doing so.
3. A member's contacts may submit comments to the BWC via the member for discussion during meetings.
4. The BWC will develop and maintain a communication plan that identifies interested audiences and strategies for sharing information and coordinating activities with residents, groups, public agencies, California Native American Tribes, and other parties in the region.

# **Borrogo Water Coalition**

## **Memorandum of Understanding**

March 29, 2013 (Revised December 5, 2013)

5. The BWC will develop and maintain an email list of interested parties, including individuals and organizations, who wish to receive general updates and information about the BWC's work, but do not wish to be involved directly.
6. The BWC will develop and maintain a website to ensure public access to meeting agendas, meeting materials, and meeting summaries, as well as to share general updates and information about the BWC's work.
7. The facilitator(s) will prepare draft high-level meeting summaries, including action items, agreements, and key points, for review and adoption by the BWC. Meeting summaries will identify statements made by DWR representatives, the facilitator(s), and guest speakers or presenters; and meeting summaries will include a list of meeting participants. However, the summaries will not attribute any comments made to individual members or organizations; in this regard, the summaries will adhere to the Chatham House Rule.
8. See also the Press and Media Protocol item #3 regarding BWC statements.

### **ADDENDUM F: FINANCIAL COMMITMENTS**

To achieve the mission of the BWC, members agree to the following:

1. Any member who desires the BWC to cover (in advance or through reimbursement) of the costs associated with BWC work must prepare a draft scope of work, estimated budget, and cost-sharing proposal for review and comment by the BWC. The BWC must adopt by consensus a final scope and budget before any member will have an obligation to help cover the costs.
2. Member commitments to help cover the costs of BWC activities are made by individual persons, not organizations or agencies, unless otherwise specified in writing. More specifically, an organization or agency will only be obligated to help cover costs if they provide a letter on their letterhead and signed by the appropriate fiscal authority that indicates their approval of the proposed scope, budget, and cost-sharing proposal, and commitment to covering a specific portion of the costs.

### **ADDENDUM G: OBSERVERS AND NEW MEMBER REQUESTS**

1. The BWC is committed to ensuring that members can have honest, candid conversations about sensitive topics. For this reason, BWC meetings are open only to members. The BWC will periodically develop public statements about its work, agreements, and progress.
2. The BWC is not currently accepting new members. The BWC understands the importance of including Valley-wide stakeholders, and has worked hard to ensure that these stakeholders' interests are represented by the people who make up the BWC. The BWC has limited its size to ensure that it can efficiently discuss and work through the range of issues. The BWC believes that its current makeup adequately represents diverse stakeholder interests.