

Minutes
CHINO BASIN WATERMASTER
ADVISORY COMMITTEE MEETING

October 23, 2008

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on October 23, 2008 at 9:00 a.m.

ADVISORY COMMITTEE MEMBERS PRESENT

Appropriative Pool

Mark Kinsey, Vice-Chair

Marty Zvirbulis

Ken Jeske

Ron Craig

Anthony La

Rich Atwater

Mike McGraw

Dave Crosley

Charles Moorrees

Nichole Horton

Non-Agricultural Pool

Bob Bowcock

Agricultural Pool

Bob Feenstra

Jennifer Novak

Nathan Mackamul

Monte Vista Water District

Cucamonga Valley Water District

City of Ontario

City of Chino Hills

City of Upland

Inland Empire Utilities Agency

Fontana Water Company

City of Chino

San Antonio Water Company

City of Pomona

Vulcan Materials Company (Calmat Division)

Dairy

Department of Justice/CIM

State of California/CIW

Watermaster Board Members Present

Terry Catlin

Ken Willis

Inland Empire Utilities Agency

City of Upland

Watermaster Staff Present

Ken Manning

Sheri Rojo

Ben Pak

Danielle Maurizio

Sherri Lynne Molino

CEO

CFO/Asst. General Manager

Senior Project Engineer

Senior Engineer

Recording Secretary

Watermaster Consultants Present

Michael Fife

Mark Wildermuth

Brownstein, Hyatt, Farber & Schreck

Wildermuth Environmental Inc.

Others Present

Phil Rosentrater

Scott Burton

David DeJesus

Steven Lee

Michael Camacho

Eunice Ulloa

Western Municipal Water District

City of Ontario

Three Valleys Municipal Water District

Reid & Hellyer

Visitor

Chino Basin Water Conservation District

Vice-Chair Kinsey called the Advisory Committee meeting to order at 9:15 a.m.

AGENDA - ADDITIONS/REORDER

There were no additions or reorders made to the agenda.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Advisory Committee Meeting held September 25, 2008

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of September 2008
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through August 31, 2008
4. Treasurer's Report of Financial Affairs for the Period August 1, 2008 through August 31, 2008
5. Budget vs. Actual July 2008 through August 2008

Motion by Jeske, second by Zvirbulis, and by unanimous vote

Moved to approve Consent Calendar Items A through B, as presented

Item C was pulled for discussion and separate motion

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company ("Company") has agreed to purchase from The Nicholson Trust annual production right in the amount of 8.185 acre-feet. Date of Application: May 16, 2008
2. **Consider Approval for Notice of Sale or Transfer** – Cucamonga Valley Water District is purchasing 2,500 acre-feet of water from Marygold Mutual Water Company. Date of Application: September 4, 2008
3. **Consider Approval for Notice of Sale or Transfer** – The City of Ontario (as an Overlying Non-Agricultural Party) is purchasing from Sunkist Growers, Inc. all of the amount of Sunkist's water in storage as of June 30, 2008. In addition, Sunkist's annual safe yield production rights in the amount of 1,851.402 acre-feet will be permanently transferred to the City of Ontario (as an Overlying Non-Agricultural Party). Date of Application: August 19, 2008

Mr. Bowcock is pulling this item for discussion purposes at this committee level before it goes to the Watermaster Board later today. This item is requesting approval of notice; however, since it is going to materially change the way things are done, this item requires further discussion and clarification. Item C3 is something that materially changes the way business is done; there are lands that have been represented to have changed hands that have been purchased that are associated with water rights. Those water rights were overlying and the land that is being purchased with that is not necessarily the land that the water was developed at or for. Mr. Bowcock stated he wants the record very clear. The lands that have been purchased, associated with this notice of transfer, are not essentially where the water was developed or where the water was served. Mr. Bowcock noted this will potentially materially change governance at Chino Basin Watermaster. As long as the parties understand that and move forward with a clear record being made, Mr. Bowcock will make a motion to support this notice. Mr. Jeske stated he will second the motion; however, this is just one person's opinion and not even a legal opinion on this matter. Mr. Jeske noted these water notices/transactions have already been approved by the Appropriative and Non-Agricultural Pools. Mr. Jeske stated these are transfers of water and not interventions and this issue does not relate to governance; which is a mischaracterization off this item. The record does need to reflect that the representative from the Non-Agricultural Pool is making comments that were not represented by the other pools or at the last Non-Ag Pool meeting. Mr. Feenstra stated he supports the motion and

thanked Mr. Bowcock for bringing up this issue which was also brought up and discussed at the last Agricultural Pool meeting.

Motion by Bowcock, second by Jeske, and by unanimous vote
Moved to approve Consent Calendar Item 1C, as presented

II. BUSINESS ITEMS

A. GOVERNANCE

Mr. Manning stated this item is on the agenda because Watermaster is seeking clarity on some issues that staff thought was resolved over a year ago. Motions have been made in pleadings by Monte Vista Water District, City of Chino, and City of Chino Hills, regarding the topic of whether the issue of governance was satisfied in a meeting held on October 2, 2007 or not was called into question. Staff is asking if the parties are asking for Watermaster to form a Governance Committee now or if that provision has previously been satisfied. This item has gone through the Pools and all three pools came to the same conclusion and approved the same motion. The motion was that this item should be sent to the Watermaster Board with no action and that the Board of Directors should be asked for clarification on their intent if they believe the committee should still be put into place or whether this item should be held off until the nine member board issue is re-established in 2010 for action in January 2011. A lengthy discussion regarding this matter ensued. Counsel Fife stated through the entire process last month, through the Pools, Advisory Committee, and Watermaster Board, there was some very general discussion of this issue; governance was brought up as part of the Legal Counsel Report. There were discussions at all meetings but there was no actual action by any of the Pools, Advisory Committee, or Watermaster Board. Counsel Fife stated it was requested for Watermaster staff to bring this forward in a more formal manner so that there would be action from each of the committees. A discussion regarding improving efficiencies and the possibility forming a Governance Committee ensued. Mr. Crosley noted that he inquired at the Appropriative Pool meeting about reporting this issue to the court because of the way the nine member board was reappointed and a look up from counsel on this. Counsel Fife stated the court order from February 9, 2006 reappointed the nine member board. That order was reviewed by staff and counsel and there was no discussion of governance in that order or any orders to Watermaster to do anything with regard to governance. Counsel Fife stated the only mention was in the last sentence of the order which said the court reminds the parties that changing the governance structure of Watermaster that will require court approval (paraphrased.)

Motion by Kinsey, second by Jeske, and by unanimous vote
Moved to take no action taken – forwarding to the Watermaster Board for clarification, as presented

B. WAIVER OF INTEREST CHARGES

Mr. Manning stated Watermaster clearly has a authority to assess interest on delinquent payments to Watermaster that is a part of the Judgment; that language is in the staff report. Mr. Manning noted Watermaster has an obligation as part of the Judgment to invoice for administrative, OBMP expenses, recharge debt, and assessments for overproduction and included in the Judgment are provisions by which interest would bear on unpaid balances. This is application of interest has been utilized by Watermaster staff five times in the past prior to these two instances. All parties have responded by paying their assessments and interest charges in a timely manner; however, there were two invoices that staff applied interest charges to when payment was not received timely this past year and those two outstanding interest bills are being presented today because the parties are requesting a waiver of those interest charges. Both parties have been contacted and dialog has taken place regarding these charges. During those conversations the two parties were asked to write a letter requesting the waiver of interest charges and upon receipt of those letters staff will recommend accommodating the waiver. Staff has drafted a policy for more clarifying and notifying the processing of delinquent assessments in the future and it is available on the back table for

review and comment. Mr. Manning stated since he does not have the authority to waive fees it was appropriate to bring this matter through the Watermaster process for recommendations. A discussion regarding this matter ensued. Mr. Manning stated staff is seeking a waiver of these charges. Mr. Manning stated the Appropriative and Non-Agricultural Pool approved the waiver requested and the Agricultural Pool did not approve the waiver. Mr. Jeske stated he would like to make the motion to waive these two unpaid balances of interest fees and for Watermaster staff to bring a draft policy through the process. Mr. Feenstra stated the Agricultural Pool is unanimously and strongly opposed waiving the Monte Vista Water District interest charge of \$31,582.97 and Arrowhead Mountain Spring Water interest charge of \$4,828.53. A discussion regarding why these two parties bills were not paid on time and events that took place leading up to these request of waivers ensued. Mr. Feenstra offered comment on this matter and duly noted his opposition in waiving these fees.

Motion by Jeske, second by La, and by majority vote – the Agricultural Pool voted no
Moved to approve waiver in interest charges for Arrowhead Mountain Spring Water in the amount of \$4,828.53 and Monte Vista Water District in the amount of \$31,582.97, and to bring back a draft policy through the Watermaster process, as presented

C. MOU OF WATER ACCOUNTING PROCEDURE

Mr. Manning stated staff received this MOU a couple of months ago; last month it was included in the meeting package as an item for review. Mr. Manning reviewed the cover letter written by Mr. Arakawa, noting it states this accounting procedure does not change the agreement in any way, creating the question why is it called an amendment if there is no amendment being made? Mr. Manning noted staff feels this MOU interprets the agreement as opposed to what the original agreement actually states. It was noted the three other signatories have signed this. Mr. DeLoach inquired about the consequences of not signing the agreement. Counsel Fife stated we are looking at the Dry Year Yield Program as it now. There were things in the original DYY Program Agreement that parties are starting to look at closer as to how those procedures are impacting them. Review by all the Watermaster parties needs to take place and direction to sign or not to sign need to be formalized. Counsel Fife reviewed the cover letter provided in the meeting packet and noted that most of the agreement coincides with the original agreement; however, there are sections that can't be found in the original agreement and those are section 2A3 on pp. 40, 2B2 on pp. 41, and 2B3 on pp. 42 in the meeting packet. Counsel Fife reviewed those sections in detail. This MOU will not be signed without direction from the Watermaster parties. A discussion regarding this matter ensued. Mr. Manning noted at the Appropriative Pool meeting it was asked that a meeting with Metropolitan Water District staff take place and possibly a meeting with Chino Basin Watermaster parties, Inland Empire Utilities Agency, and Three Valleys Municipal Water District before the meeting with MWD. It was noted this item will be continued until the meetings take place and an update can be given.

Motion by Crosley, second by Zvirbulis, and by unanimous vote
Moved to table this item, as presented

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. October 14 and October 16 Ex Parte Hearings

Counsel Fife stated last week was very busy with regard to court processes. An October 21, 2008; that hearing included approval of Annual Reports, Conditions Subsequent 1 through 6, interventions, and Cucamonga Valley Water Districts (CVWD) motion with regard to the Special Referee. CVWD did file a request to continue that one portion of the hearing with regard to their motion and that was heard on October 14, 2008; however, the court stated if one item was going to be continued, then all items would be continued. The only issue that came up in continuing all the items was the interventions which were time sensitive. There was an Ex Parte hearing scheduled for October 16, 2008 to approve the

interventions; the court did approve all of them. The court moved everything else to November 13, 2008.

2. November 13, Hearing
No comment was made regarding this item.
3. Board Closed Session Report
Counsel Fife stated there was a closed session at the last Watermaster Board meeting to discuss the Chino Airport litigation. The only direction given from the Board was regarding the plume and noted the action was to reaffirm its conceptual decision and Watermaster will assume primary responsibility for prosecuting the potentially responsible parties for airport plume contamination. Counsel Fife noted there will be a closed session at the Watermaster Board meeting today.

B. ENGINEERING REPORT

1. Oral Progress Report on Engineering Activities, August – September 2008
No comment was made regarding this item.
2. Progress on Condition Subsequent No. 7
Mr. Wildermuth stated Condition Subsequent No. 7 states that by December 31, 2008, Watermaster shall prepare and submit to the court for approval a revised schedule to replace the Initial Corrected Schedule, which shall include a reconciliation of allocated new yield and storm water 2000/2001 through 2006/07, and a discussion of how Watermaster will account for unreplenished overproduction for that period. Mr. Wildermuth reviewed the Initial Corrected Schedule and the Unreplenished Desalter Production charts in detail. Mr. Geoff Vanden Heuvel commented on the Santa Ana River recharge numbers with regard to the desalters. Mr. Geoff Vanden Heuvel stated that the policy deal that was put together was that 400,000 acre-feet of water was going to be mined to achieve some specific purposes. To go back and claim some of that water because of a previous activity is a policy decision that needs to be made. Water has already been allocated and assumed to be available to WMWD to build Desalter III; this is not a technical decision. Mr. Geoff Vanden Heuvel stated the fundamental premise of the Chino Basin Judgment is nobody gets to pump water out of the Basin unless one has a water right and if you don't have a water right and pump, it must be replenished. The Agricultural pool dedicated 12,000 acre-feet to the desalter which was critical for getting that desalter built and that it had a replenishment supply. The Agricultural Pool voted to allocate 82,800 acre-feet of the unused portion of their annual safe yield and 12,000 acre-feet of the 82,800 acre-feet to the desalter. At that time, the Appropriators stated collectively, that they will take upon themselves the responsibility to provide replenishment water for the desalter and the Regional Board accepted that promise by the Appropriators. Mr. Koopman commented on Mr. Thibeault's and Mr. Hill's remarks at past Agricultural Pool meetings regarding this matter and the 12,000 acre-feet that were proposed to be set aside. Mr. Wildermuth reviewed the reconciliation of storm water recharge and noted IEUA and the Groundwater Recharge Coordinating Committee produced estimates for 2004/05 through 2007/08 and Watermaster staff is reviewing and auditing those numbers. Mr. Wildermuth reviewed the Provisional Estimates of Storm Water Recharge chart in detail. Mr. Manning noted there is the technical aspect of this topic and Mr. Wildermuth is giving a report on that, the other aspect pertains to policy decisions that will need to be made. Mr. Manning stated on Wednesday, November 12, 2008, from 9:00 a.m. to 11:00 a.m. a Condition Subsequent No. 7 Workshop will be held. The technical, legal, and policy issues of Condition Subsequent No. 7 will be presented/discussed at the workshop.

C. CEO/STAFF REPORT

1. Legislative Update
Mr. Manning stated Inland Empire Utilities Agency has several informative legislative updates in their section of the meeting package starting on page 149.

2. Recharge Update
Mr. Manning stated there has been a small amount of recharge in the basin and the most recent Recharge handout is available on the back table for your review.
3. Thanksgiving & Christmas Meetings
Mr. Manning stated both the Advisory Committee and Watermaster Board meetings have been moved up one week in the months of November and December to accommodate the Thanksgiving and Christmas holidays; please note those changes on your schedules.

D. INLAND EMPIRE UTILITIES AGENCY

1. Groundwater Recharge Update Presentation
Mr. Love gave the Groundwater Recharge Update presentation. Mr. Love reviewed what took place at the September 19, 2008 Recycled Water Workshop and noted the presentations that were given at that workshop are available on the IEUA web site. Mr. Love spoke on the California Groundwater Recharge Regulations. The 10-Year vs. 5-Year Rolling Average and Recycled Water Recharge Forecast maps were reviewed.
2. MWD Water Supply (Drought) Allocation Plan
Mr. Atwater gave the Draft IEUA Water Supply Allocation Plan presentation. Mr. Atwater reviewed the 2009 Water Supply Outlook, MWD Water Supply Allocation, IEUA Water Allocation Plan Process, and IEUA Goals charts in detail. The Overview of MWD's 2009 Baseline Water Supply Allocation to IEUA was reviewed and discussed. The Implications for IEUA's Water Supply was examined. A brief overview of Draft Principles was evaluated. A discussion regarding this topic ensued.
3. ACWA Drought Alert Flyer
No comment was made regarding this item.
4. Recycled Water Newsletter
No comment was made regarding this item.
5. Monthly Water Conservation Programs Report
No comment was made regarding this item.
6. Monthly Imported Water Deliveries Report
No comment was made regarding this item.
7. State and Federal Legislative Report
No comment was made regarding this item.
8. Community Outreach/Public Relations Report
No comment was made regarding this item

E. OTHER METROPOLITAN MEMBER AGENCY REPORTS

No comment was made regarding this item.

IV. INFORMATION

1. Newspaper Articles
No comment was made regarding this item.

V. COMMITTEE MEMBER COMMENTS

No comment was made regarding this item.

VI. OTHER BUSINESS

No comment was made regarding this item.

VII. FUTURE MEETINGS

October 22, 2008	2:00 p.m.	Agricultural Pool Meeting @ CBWM
October 23, 2008	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
October 23, 2008	9:00 a.m.	Advisory Committee Meeting
October 23, 2008	11:00 a.m.	Watermaster Board Meeting
November 13, 2008	8:30 a.m.	CBWM Hearing
November 18, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
November 18, 2008	1:30 p.m.	Joint Appropriative & Non-Agricultural Pool Meeting
November 20, 2008	9:00 a.m.	Advisory Committee Meeting
November 20, 2008	11:00 a.m.	Watermaster Board Meeting

The Advisory Committee meeting was dismissed by Vice-Chair Kinsey at 10:40 a.m.

Secretary: _____

Minutes Approved: November 20, 2008