

**Minutes**  
**CHINO BASIN WATERMASTER**  
**ADVISORY COMMITTEE MEETING**

*June 25, 2009*

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on June 25, 2009 at 9:00 a.m.

**ADVISORY COMMITTEE MEMBERS PRESENT**

**Appropriative Pool**

Gene Koopman, Chair

Marty Zvirbulis

Mark Kinsey

Ken Jeske

Dave Crosley

Ron Craig

Raul Garibay

Robert Tock

Charles Moorrees

Robert Young

Mike McGraw

**Agricultural Pool**

Bob Feenstra

Jennifer Novak

Jeff Pierson

**Non-Agricultural Pool**

Bob Bowcock

David Penrice

Milk Producers Council

Cucamonga Valley Water District

Monte Vista Water District

City of Ontario

City of Chino

City of Chino Hills

City of Pomona

Jurupa Community Services District

San Antonio Water Company

Fontana Union Water Company

Fontana Water Company

Ag Pool - Dairy

State of California Dept. of Justice, CIM

Ag Pool – Crops

Vulcan Materials Company (Calmat Division)

Aqua Capital Management

**Watermaster Board Members Present**

Michael Camacho

John Rossi

Ken Willis

Inland Empire Utilities Agency

Western Municipal Water District

City of Upland

**Watermaster Staff Present**

Kenneth R. Manning

Sheri Rojo

Ben Pak

Danielle Maurizio

Sherri Lynne Molino

Chief Executive Officer

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**

Sandra Rose

Steven Lee

Marty Zvirbulis

Rich Atwater

Robert Tock

Terry Catlin

Martha Davis

Monte Vista Water District

Reid & Hellyer

Cucamonga Valley Water District

Inland Empire Utilities Agency

Jurupa Community Services District

Inland Empire Utilities Agency

Inland Empire Utilities Agency

John Mura  
John Bosler

City of Chino Hills  
Cucamonga Valley Water District

Chair Koopman called the Advisory Committee meeting to order at 9:00 a.m.

### **AGENDA - ADDITIONS/REORDER**

Mr. Manning stated there were three new handouts regarding the auction Business Item II A; 1) Revised Staff Letter, 2) Supplement staff letter, and 3) Exhibit A – Conditions for Storage and Recovery Agreement

#### **I. CONSENT CALENDAR**

##### **A. MINUTES**

1. Minutes of the Advisory Committee Meeting on May 28, 2009

##### **B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of May 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through April 30, 2009
4. Treasurer's Report of Financial Affairs for the Period February 1, 2009 through April 30, 2009
5. Budget vs. Actual July 2008 through April 2009

*Motion by Garibay, second by Jeske, and by unanimous vote*

***Moved to approve Consent Calendar A through C, as presented***

#### **II. BUSINESS ITEM**

##### **A. OVERLYING NON-AGRICULTURAL POOL AUCTION ISSUES**

1. Storage & Recovery Agreement
2. Broad Benefit
3. Determination on Material Physical Injury

Mr. Manning stated this item has been on the Pools, Advisory Committee, and Watermaster Board agendas as a discussion item for the past several months; however, this month staff is seeking a motion to approve the three items presented. Mr. Manning noted this item comes to you from a majority vote from the Appropriative and Non-Agricultural Pools and a no action from the Agricultural Pool. At the Appropriative Pool it was decided a sub-committee would be formed to meet and discuss the MZ1 language; they met and the recommendation from that sub-committee was to remove the MZ1 language completely. A question regarding where the notation was made regarding MZ1 and Mr. Manning stated has been removed, making it a more generic document. Mr. Kinsey inquired about 2% storage loss and fees. A discussion regarding Mr. Kinsey's inquiry including lower storage losses and buy in fees ensued. Mr. Manning stated staff and counsel will present to the court the established fee based upon this recommendation and there will be discussion among the parties as to the refinement of this fee and this could be a part of the administration documents of the auction as a condition because it is not known who the buyers will be. Mr. Manning stated this is an existing storage account that has already been subject to losses as part of the overlying non-agricultural pool who has been contributing during the full measure of these activities. What is being presented is staff and legal counsel's recommendation to move this process forward. Mr. Kinsey inquired about the 10% dedication. Mr. Manning stated the 10% comes off the top; before the sale. Mr. Manning stated it is staff and counsel's opinion that the Storage & Recovery Template Agreement will not be presented to the judge for 30-60 days. Mr. Jeske noted things must be documented with backup provided whenever possible. Mr. Manning stated staff is willing and eager to have additional conversations about how staff might be able to build consensus and noted staff understands there are still concerns. Chair Koopman reviewed the discussions that took place at the recent Agricultural Pool meeting regarding the material physical injury analysis and physical export. Counsel Fife noted there was a legal response presented recently in a previous staff report regarding export. Counsel Fife stated staff believes that the stored water is

different from the water that is subject the prohibition on export and stated there is no prohibition on export in the Judgment; there is only a provision that states that export has to be replenished. Counsel Fife stated because this is a unique block of water and a one-time situation, it is justified under the Judgment and consistent with the intent of the Judgment that this water could be exported without replenishment. Mr. Bowcock stated the overlying non-agricultural pool sold its water to the Watermaster and that contract was signed over a year ago and this water is now Watermaster's water and it will be Watermaster's auction. Mr. Bowcock inquired about who is retaining the qualified consultant. Mr. Manning stated Watermaster will be retaining the auction consultant with a contract and that contract will go through the Watermaster process for approval. Mr. Manning stated there are three definitive actions being sought today and those are the findings of Broad Benefit, a determination on material physical injury, and the Storage & Recovery Agreement template. Mr. Manning stated the template is what will be presented to the court for final approval and that template could be used no matter who the buyer ends up being. There is no recommendation today to approve the auction administration today; however, this will come through the Watermaster process in July. A lengthy discussion regarding the three items presented ensued. Mr. Penrice inquired about exclusive compensation rights. A lengthy discussion regarding compensation rights and broad mutual benefits ensued. Counsel Fife stated the water is in storage and it must have a storage account so a proposed structure was created and part of that structure was the concept that the two are linked and it is not two separate transactions and the compensation under the Peace Agreement to the Non-Agricultural Pool is the money they received from the purchase under the Purchase & Sale Agreement. This has been circulating through the process for several months and the Non-Agricultural Pool voted to approve that structure and gave its consent to the agreement. Mr. Bowcock stated a Storage & Recovery Agreement is needed to for this deal however, for this one unique transaction there are many undefined outcomes for broad mutual benefit. A lengthy discussion regarding this matter ensued. It was decided a motion for each item would be taken separately.

1. Storage & Recovery Agreement

*Motion by Zvirbulis, second by Jeske, and by majority vote – Agricultural Pool abstained*

***Moved to approve the draft Template Storage & Recovery Agreement through an auction process including a change in Recitals N removing the word unanimously, as presented***

***N. A template application has been approved unanimously by all Pools, the Advisory Committee, and the Board and no opposition was expressed to the proposed application for a Storage and Recovery Agreement. The date of approval by the Advisory Committee and Board was June 25, 2009 and Watermaster is prepared to execute a Storage and Recovery Agreement in accordance with the conditions of approval and the Judgment following the conclusion of a successful auction;***

2. Broad Benefit

*Motion by Jeske, second by Kinsey, and by majority vote – Agricultural Pool abstained*

***Moved to approve the findings for broad benefit as defined in the staff letter with the insertion of words “the Appropriative Pools share of,” as presented***

***“Upon receipt of a written recommendation from the Appropriative Pool and further Board approval, Watermaster may authorize the use of excess revenues received from the Purchase and Sale Agreement for the Appropriative Pools share of capital improvements to be spread equitably among management zones and that are: (i) designed, approved and scheduled for timely implementation under the Court approved Recharge Master Plan or any approved yield enhancement/preservation program and (ii) will facilitate Watermaster's recharge goals of maintaining hydrologic balance within each Management Zone and the Basin. “Capital improvements” means physical facilities that will be actually used in the production, storage, treatment, and distribution of water that will recharge the Chino Basin,***

*including but not limited to recharge basins, injection wells, pipelines, and water supplies. The qualifying capital improvements may facilitate recharge directly or indirectly through approved in-lieu strategies.”*

3. Determination on Material Physical Injury  
*Motion by Kinsey, second by Jeske, and by majority vote – Agricultural Pool abstained*  
**Moved to approve the determination on Material Physical Injury as amended by the supplemental staff report and amended Exhibit A to the Agreement dated June 25, 2009, as presented**

### III. REPORTS/UPDATES

#### A. **WATERMASTER GENERAL LEGAL COUNSEL REPORT**

1. June 29, 2009 Hearing

Counsel Fife stated there is a Watermaster hearing scheduled for Monday, June 29, 2009 at 9:30 a.m. and this hearing will cover Program Elements No. 4, 5, and 6. Presentations will be given by Watermaster staff and Watermaster consultants only. An email went out recently with the stipulation which applies to this hearing. The hearing should end around noon because the presentations being given are not lengthy.

2. Auction Administration Contract

Counsel Fife stated this item was covered in detail under the Business Item section. No further comment was made.

#### B. **ENGINEERING REPORT**

1. Recharge Master Plan Progress Report

Mr. Wildermuth stated the Recharge Master Plan, from a technical standpoint, is divided into two parts; there is a supplemental water track and a storm water track. The storm water work is being done by the Chino Basin Water Conservation District and their consultants along with Inland Empire Utilities Agency staff; their first draft test memorandum is to be released shortly. Mr. Wildermuth stated with regard to the supplemental water track, Wildermuth Environmental has prepared and released some estimates for the supplemental water recharge requirements for the future and have only received minor comments back on that report. This report will be used as a goal for the future and in all the work that is being done. It was noted this basin probably does not need any more spreading facilities; however, improvements to the current spreading facilities will need to be done. An additional source of supplemental water will be needed unless Metropolitan Water District (MWD) can change their projections on supply reliability. Black & Veatch is working on facility improvements for both injection and the possibility of moving water from the San Gabriel line into some of the spreading basins that have not previously been considered. Wildermuth Environmental is looking at the parameters for a new supplemental water source. A discussion regarding this matter ensued. Mr. Wildermuth stated with regard to the production optimization work, this work was an additional task added to the recharge master plan and is being worked on with water agencies to possibly revise their pumping patterns. Mr. Wildermuth stated working with those agencies was successful and two new scenarios were run; one was if the basin remains limited by getting water from MWD and the other scenario is if that limitation is removed. A discussion regarding the two scenarios ensued.

2. Upcoming Workshop Schedule

Mr. Wildermuth stated there is a workshop scheduled on July 23, 2009 directly after the Watermaster Board meeting and at that workshop; production optimization work will be reviewed in detail.

**C. FINANCIAL REPORT**1. Fiscal Year End Update

Ms. Rojo stated the fiscal year ends next week and staff is currently ahead of schedule in that the Land Use Conversions are almost completed. Production reports have been sent out to the parties and staff should be receiving them back shortly after the fiscal year closes.

**D. CEO/STAFF REPORT**1. Legislative Update

Mr. Manning stated he was recently in Sacramento on behalf of the California Groundwater Coalition (CGC) offered comment on Proposition 1A regarding the state borrowing money from property taxes. Mr. Manning discussed several of the bills that the CGC is supporting. Mr. Manning offered comment on the regulation of water softeners and what is taking place in Sacramento because of this bill. Mr. Manning stated he recently received an email regarding the joint hearing of the Water Parks & Wildlife and the Senate Natural Resources was set for July 7, 2009 at 9:00 a.m. and the reason this is so important is because this is the first time that the public will have an opportunity to respond to the proposed Delta Package that has been moving around as five separate bills which are now being consolidated as one proposal. Mr. Manning stated he has not seen a draft of this consolidated proposal to date and noted the hearing should be fascinating with all that is going on regarding this important issue. Mr. Manning stated he was able to meet with several legislators to discuss bills and this upcoming hearing. The CGC has put together a two page outline discussing what is of importance to groundwater agencies that should be incorporated into any proposal that moves forward regarding the Delta issue and that outline will be submitted prior to July 7<sup>th</sup>. Included in that outline are energy savings issues, monitoring, and priority on groundwater storage which are all still very important. Mr. Manning stated his time was very well spent in Sacramento and noted the buzz there right now is on the budget. Mr. Manning noted in the meeting package IEUA has current detailed legislative section that covers both federal and state issues starting on page 73 of the meeting packet.

2. Recharge Update

Mr. Manning stated there is a current recharge update on the back table for review.

## Added Comment:

Mr. Manning stated there is a copy of the Orange County Grand Jury Report which was just issued regarding the water situation in Orange County for informational purposes only. Mr. Manning offered comment on the report.

3. Revised Rules & Regulations Forms for Water Transfers and Land Use Conversions

Ms. Maurizio stated today we will preview new Water Transfer & Land Use Conversion forms that staff has been working on. It has been our good to create easier forms for the parties to use. Ms. Maurizio stated these forms will be on the agenda next month for approval so any comments will be needed by June 30, 2009. Ms. Maurizio gave her presentation and reviewed the old forms and the new forms in detail. A discussion regarding the new forms and the tracking of Agricultural conversions ensued.

**E. INLAND EMPIRE UTILITIES AGENCY**1. MWD Water Supply Allocation Update

No comment was made regarding this item.

2. IEUA's Drought Plan Update

No comment was made regarding this item.

3. Recycled Water Status Report

Mr. Atwater stated a workshop for recycled water will be scheduled later this summer. Mr. Atwater commented on the City of Ontario who have exceeded over 100 customer hook-ups for recycled water and congratulated Mr. Jeske and his staff. Mr. Atwater noted IEUA is working closely with the City of Chino and the City of Ontario in hooking up some of the farmers down in the southern part of the service area and this month IEUA will have exceeded our target in our three year business plan for recycled water connections. Mr. Atwater offered some details on this exciting endeavor for the use of recycled water.

4. Peace II CEQA Update

No comment was made regarding this item.

5. DYY Program Expansion Update

No comment was made regarding this item.

6. 2010 UWMP Kickoff

No comment was made regarding this item.

7. Water Conservation Programs Monthly Report

No comment was made regarding this item.

8. Monthly Water Use Report

No comment was made regarding this item.

9. Recycled Water Newsletter

No comment was made regarding this item.

10. State and Federal Legislative Reports

Mr. Atwater noted starting on page 73 of the meeting packet is a complete listing of both federal and state legislation activities for review.

11. Community Outreach/Public Relations Report

No comment was made regarding this item.

**F. OTHER METROPOLITAN MEMBER AGENCY REPORTS**

Mr. Rossi offered commented on the recently received financial review of the Metropolitan Water District rate charge system.

**IV. INFORMATION**

1. Newspaper Articles

No comment was made regarding this item.

**V. COMMITTEE MEMBER COMMENTS**

Chair Koopman offered comment on the Delta situation and encouraged all parties to stay involved in getting things done to assist Southern California in its effort to provide safe and clean water to its people and to stop relying on the Delta.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

No confidential session was held.

**VIII. FUTURE MEETINGS**

June 25, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
June 25, 2009	9:00 a.m.	Advisory Committee Meeting
June 25, 2009	11:00 a.m.	Watermaster Board Meeting
June 29, 2009	9:30 a.m.	CBWM Court Hearing – San Bernardino Court
July 9, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
July 21, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
July 23, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
July 23, 2009	9:00 a.m.	Advisory Committee Meeting
July 23, 2009	11:00 a.m.	Watermaster Board Meeting
July 23, 2009	1:00 p.m.	WE Workshop #3 Task 4.3 and Task 6.2

The Advisory Committee meeting was dismissed by Chair Koopman at 10:34 a.m.

Secretary: \_\_\_\_\_

Minutes Approved: July 23, 2009