

Minutes
CHINO BASIN WATERMASTER
ADVISORY COMMITTEE MEETING

October 21, 2010

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on October 21, 2010 at 9:00 a.m.

ADVISORY COMMITTEE MEMBERS PRESENT WHO SIGNED IN

Appropriative Pool

Robert DeLoach, Chair	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Dave Crosley	City of Chino
Raul Garibay	City of Pomona
Ron Craig	City of Chino Hills
Anthony La	City of Upland
Mohamed El-Amamy	City of Ontario
Josh Swift	Fontana Union Water Company
Robert Young	Fontana Water Company
Tom Harder	Jurupa Community Services District

Agricultural Pool

Robert Feenstra	Ag Pool - Dairy
Jeff Pierson	Ag Pool – Crops
Pete Hall	State of California – CIM
Jennifer Novak	State of California Department of Justice

Non-Agricultural Pool

Ken Jeske	California Steel Industries
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ADVISORY COMMITTEE MEMBERS PRESENT WHO DID NOT SIGN IN

Non-Agricultural Pool

Bob Bowcock	Vulcan Materials Company (Calmat Division)
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Watermaster Board Member Present

Michael Camacho	Inland Empire Utilities Agency
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Watermaster Staff Present

Ken Manning	Chief Executive Officer
Joe Joswiak	Chief Financial Officer
Danielle Maurizio	Senior Engineer
Ben Pak	Senior Project Engineer
Sherri Lynne Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Scott Slater	Brownstein, Hyatt, Farber & Schreck
Andy Malone	Wildermuth Environmental Inc.

Others Present Who Signed In

Steven Lee	Reid & Hellyer
Oscar Ramos	Fontana Water Company
Ryan Shaw	Inland Empire Utilities Agency
Terry Catlin	Inland Empire Utilities Agency
Rick Rees	Department of Justice - CIM

Jim Erickson
Sheri Rojo

Law Offices of Jimmy Gutierrez
Visitor for Fontana Water Company

Chair DeLoach called the Advisory Committee meeting to order at 9:05 a.m.

AGENDA - ADDITIONS/REORDER

Chair DeLoach stated a closed session will need to be added to the agenda and asked for a motion.

Motion by Kinsey, second by Pierson, and by unanimous vote

Moved to add a closed session to the agenda, as presented

The regular open Advisory Committee meeting was convened to hold its confidential session at 9:07 a.m.

The confidential session concluded at 9:14 a.m.

There were no reportable actions.

The regular open Advisory Committee meeting was reconvened at 9:15 a.m.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Advisory Committee Meeting held September 23, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of August 2010
2. Watermaster Visa Check Detail for the month of August 2010
3. Combining Schedule for the Period August 1, 2009 through August 31, 2010
4. Treasurer's Report of Financial Affairs for the Period August 1, 2010 through August 31, 2010
5. Budget vs. Actual July 2010 through August 2010

Motion by Garibay, second by Pierson, and by unanimous vote

Moved to approve Consent Calendar items A and B, as presented

II. BUSINESS ITEMS

A. WATERMASTER RESOLUTION NO. 10-04 FOR PHASE III DESALTER EXPANSION

Mr. Manning stated counsel and staff is attempting to bring this item to its conclusion and allow the parties to feel comfortable in moving ahead with all the commitments regarding the Phase III Desalter Expansion. Mr. Manning noted Scott Slater is here today to answer any questions and/or review any documents needed to move this item on to the Watermaster Board for approval. Mr. Manning stated the Appropriative Pool moved to approve Resolution 10-04 subject to approval of the Appropriator Resolution in Exhibit "I" by the individual CDA appropriators and recommend approval to the Watermaster Board. The Agricultural Pool moved to conditionally approve the Resolution subsequent to the final approval by the Agricultural Pool Chair, Vice-chair, Director Vanden Heuvel, and Director Hofer. The Non-Agricultural Pool moved to authorize Bob Bowcock to support the motion made at the Advisory Committee and Watermaster Board meetings and advocate any edits made at those meetings. Mr. Pierson asked counsel to review the documents being presented today. Counsel Slater stated he would focus on the items that are new from when the Resolution was originally released in late August. Counsel Slater stated when the 2007 Peace II Agreement was done there was a bi-lateral, contractual relationship between Western Municipal Water District (WMWD) and everyone else. WMWD agreed to pursue the Phase III Expansion and to meet the objectives of the supplemental OBMP. Counsel Slater stated there was no comparable relationship between the City of Ontario, Jurupa Community Services District (JCSD), and the balance of the CDA members with regard to the project. The Peace II Agreement included a provision wherein

WMWD could combine with the City of Ontario and JCSD and pursue the Phase III Expansion as the expansion parties. Counsel Slater reviewed the new documents, including the new Appropriator Resolution, in detail. Counsel Slater stated these documents have been reviewed by all the parties including the CDA members who participated in the process. Their principals and their counsel have agreed to recommend it to their various board counsels. Counsel Slater offered comment on the validity of the documents and reviewed the difference between the documents presented at the Agricultural Pool meeting and the documents being presented today. Counsel Slater stated everyone's common law rights are reserved, subject to the factual findings for the items included in these documents. Counsel Slater stated the documents presented today are accurate, have been cross referenced, and include all the changes. Mr. Lee stated as the Agricultural Pool counsel, he has had an opportunity to review the documents and he does not see any substantive changes. Mr. Bowcock inquired as to whom the other boards are that might approve this document. Counsel Slater stated this is a Watermaster Resolution that is dependent upon findings, and the resolution is comprised of 'whereas' which are representations of facts that are in the record and findings which are based upon those facts, which then support the decision by the Watermaster Board. Counsel Slater stated when it relates to the Appropriator Resolution that is different, and it is trying to produce a fact to allow Watermaster to make a finding so a decision can be made. The fact that is trying to be demonstrated is that each one of the individual members of the CDA is now going to undertake to represent to Watermaster that they are going to exercise good faith and reasonable best efforts. While that is not sufficient on its own, by the time the process is complete it will be. It can then finally be presented to the Regional Board and to the court, with their permission, that they have made this commitment. Counsel Slater stated once all is said and done, Watermaster will have court approval and a court order. Mr. Bowcock stated the Non-Agricultural Pool has expressed concern, and inquired about the intervention by Western Municipal Water District. Mr. Bowcock expressed concern about how people are assigned to a Pool by Watermaster based upon their conditions and referenced Whereas Number 77. Mr. Bowcock asked for clarification. Counsel Slater stated in the original negotiations of the Peace II Agreement there was no requirement that WMWD intervene into the Appropriative Pool. Counsel Slater offered further comment regarding Western's intervention and involvement in this process. Counsel Slater stated the Resolution recommends that WMWD be allowed to participate in the project, as defined, without securing any rights as an Appropriator and effectively create a twenty-four month window wherein the terms and conditions for their intervention, and their rights as an intervening party, would be worked through. Counsel Slater stated at the conclusion of that period of time, if Watermaster is unable to reach a fair set of rules for WMWD to intervene then it would be moved to the default position where their rights as a member of CDA will be accounted for by Watermaster by assigning those production rights to another member of the CDA. Counsel Slater reviewed the consequences. Mr. Bowcock inquired about the CDA's and WMWD's rights extinguishing. Counsel Slater stated there are no rights under the Peace II Agreement or the Peace Agreement for any party beyond the Peace Agreement; this contract has a term and in the future those problems will be addressed at that time. Counsel Slater stated WMWD has a defined contractual right presently and if they secure additional rights through the intervention process, they will be dealt with during that intervention process. The framework is being implemented by the Peace Agreement which ends in 2030. Chair DeLoach asked if there were any further questions or a motion.

Motion by Kinsey, second by La, and by majority vote – Non-Agricultural Pool voted no
Moved to approve Resolution 10-04 subject to approval of the Appropriator Resolution included as Exhibit "I" by the individual CDA appropriators and recommend approval to the Watermaster Board, as presented

B. CHINO BASIN WATERMASTER 2010-2011 ASSESSMENT PACKAGE

Mr. Manning stated Ms. Maurizio is here to give the same presentation which was given at the Pool meetings and to answer any questions. Mr. Manning noted there is a new handout for page 8A of the Assessment Package. Chair DeLoach asked that Ms. Maurizio highlight any changes which were made to the Assessment Package since the Pool meetings and forgo the

actual presentation. Ms. Maurizio stated the changes are reflected in the staff letter. Ms. Maurizio reviewed the changes/revisions in detail. Mr. Young asked that a caveat be added to the motion which will form a work group to show how the Cumulative Unmet Replenishment Obligation is being addressed and will allow the parties to monitor its progress throughout the year; maybe report on this item under the CEO report on the agendas. Chair DeLoach asked if staff could report this data on this item on a monthly basis. Mr. Bowcock stated the Non-Agricultural Pool at its last meeting only approved the Non-Agricultural portion of the Assessment Package and not as a whole.

Motion by Kinsey, second by Young, and by unanimous vote

Moved to approve the Chino Basin Watermaster 2010-2011 Assessment Package with the caveat that a work group will be formed to review how the Cumulative Unmet Replenishment Obligation is progressing, as presented

C. SAN SEVAINE CHANNEL REPAIR AGREEMENT

Mr. Manning stated this item has been an issue since Christmas of 2003. Mr. Manning stated there were a series of events that occurred just prior to Christmas of 2003 from work being done on the San Sevaire Channel and on the Etiwanda Chanel – both by the County and by Watermaster in the construction of a drop inlet which was going to be installed in the Channel. There were a series of events that took place and a situation occurred that the Inland Empire Utilities Agency contractor had not anticipated. The contractor was given permission to leave the site as they did not know the County had opened up the channel between San Sevaire and Etiwanda which allowed water to get into the Channel. That water undermined all of the work that had been done on the drop inlet, and undermined a large portion of the slide slopes and the bottom Channel. This required the County to get a contractor at that site on Christmas Day in 2003 to gunite the entire bottom in order to ensure the entire integrity was not lost. Since then the County has been working to restructure the Channel for the segment that was damaged during the storm. Discussions took place on payment, or the dividing of payment, and it was decided through a partnership that IEUA and Watermaster would pay 50% of the damages and the County would pay the other 50% - totaling approximately \$1 Million dollars. The County is going to begin work on this project following the rainy season this year. It is anticipated the work will take approximately six to seven months. The agreement that Watermaster has is as soon as that work has been completed, Watermaster will reimbursement 25% of the actual amount, not to exceed the amount listed in the contract. The County has agreed to these terms and understands Watermaster does not have the funds in the budget this year for the reimbursement and that will be done in the April/May 2011 timeframe. Mr. Manning stated Watermaster counsel has been working with the County counsel on this endeavor. Mr. Manning stated staff is seeking an approval for this agreement and noted it was unanimously approved by all three Pools. Mr. La noted Inland Empire Utilities Agency has not yet approved this item.

Motion by Craig, second by Pierson, and by unanimous vote

Moved to approve the San Sevaire Channel Repair Agreement, as presented

D. BUDGET MODIFICATION

Mr. Joswiak stated there were two special assessments last year; one was for the Non-Agricultural Pool for their legal fees of \$100,000. During the fiscal year the Non-Agricultural Pool allocated and used those funds for legal expenses. The Appropriative Pool also had a special assessment for \$100,000 for legal fees; however, that Pool did not use the entire amount and there was an amount left over. In speaking with Watermaster's external audit firm, it was recommended by them to roll the left over dollar amount into the new fiscal year budget and then if those funds are not utilized this year, to continue rolling them over into the subsequent years budget until all funds were allocated. This recommendation takes the \$63,333 and puts those funds into a general ledger account 8367 and will remain there to be used for legal fees incurred this year. Mr. Manning noted this is a different way of doing this type of action because it has been the past practice of Watermaster to zero out all funds and start with zero balances.

The auditors stated this would be the most logical choice as opposed to refunding the money and then turning around and assessing the parties again for the same amount.

*Motion by Pierson, second by Crosley, and by unanimous vote
Moved to approve the budget modification, as presented*

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. October 8, 2010 Hearing

Counsel Fife stated there was a hearing on October 8, 2010 and two items were on the agenda for consideration; 1) the approval of the Non-Agricultural Pool's motion for a Judgment amendment and 2) the approval of the Recharge Master Plan. Both were approved by Judge Reichert and a copy of the order is on the back table. Counsel Fife noted it was a very good hearing and Mr. Malone gave a technical presentation to the Judge. The scheduled one-hour long presentation ultimately turned into a three-hour presentation; the Judge seemed to really understand what was being presented and enthused to be on our case. Counsel Fife stated a January 21, 2011 hearing was scheduled by Judge Reichert to produce an updated version of the Judgment which will include all amendments since 1978. This will then be the official Judgment for the basin after the judge approves it. The other item which will be presented at the January hearing will be the CDA Expansion Resolution which does need court approval; however, the judge did note if this item was not ready by January 21st, he would accommodate Watermaster in a later date for the hearing.

2. Paragraph 31 Appeal

Counsel Fife stated the Paragraph 31 appeal is moving forward. Counsel Fife noted in September the Appellate Court issued an order asking for additional information and a copy of that order is on the back table. Counsel Fife stated the Non-Agricultural Pool and California Steel Industries responded to the order; however, counsel and staff has concerns they did not provide enough information to the court. Counsel Fife stated the two items of concern were that the Appellate Court and their order specifically pointed to the issue that parties cannot agree amongst themselves to make something appealable, and that the right to appeal is statutory only. Counsel Fife stated the concern is that they know Watermaster has a stipulated Judgment which takes the form of a contract and that the court was subtly asking why a stipulated Judgment, which is not normally appealable, can be appealable in this case. Counsel Fife stated the Judgment itself covers that issue in that it is a stipulated Judgment; it was also adopted by the court after an evidentiary proceeding which can be made appealable. The second item which needed to be made known to the court is the case in the Central Basin; they did have an issue in the past where some of the parties went to the court and asked the court to modify the Judgment and the court declined to do so. Those parties did appeal and took that case to the Appellate Court; the Appellate Court did have to address the issue of whether their stipulated Judgment could have appealable issues and the court did find that it did. Counsel Fife stated a briefing schedule has been established by the Court of Appeals and the Non-Agricultural Pool and California Steel's opening briefs are due on November 29, 2010. An order has not been distributed yet. Counsel Fife stated this information would be relevant to point out to our court that this type of case has already been dealt with.

B. ENGINEERING REPORT

1. Progress Report on Safe Yield Determination

Mr. Malone gave the Safe Yield Determination presentation. Mr. Malone reviewed the areas of: Safe Yield According to the Judgment, the Requirements to Re-Determine Safe Yield, Why Expect a Change in Safe Yield, and the Method to Re-Determine Safe Yield. Mr. Malone reviewed a map of the Area of Subsidence (1992-2001) and Historical Artesian Area (early 1900s) in detail. A discussion regarding Mr. Malone's presentation, water levels, and hydrology ensued.

C. CEO/STAFF REPORT1. Legislative Update

Mr. Manning stated there is still no budget; however, it is supposed to be voted on today. Mr. Manning reviewed the changes being proposed for the budget in detail. Mr. Manning stated there were a number of bills waiting to be signed by the governor. Some he did sign and some were vetoed. The bill which the Groundwater Coalition had worked on, AB2304, was vetoed. No reason was given by the governor as to why he vetoed it. Mr. Manning stated he has a comprehensive list of bills that were signed and vetoed for anybody who wants a copy of those.

2. Recharge Update

Mr. Manning stated it rained pretty well for the last few days; however, the recharge capture amount has not been tallied. The new recharge capture spreadsheet will be completed by the Advisory Committee meeting in a few weeks.

3. Strategic Planning Conference Update

Mr. Manning stated the conference was well attended and was an excellent way to kick off discussions on the implementation of the Recharge Master Plan. There were dynamic breakout groups, a panel discussion group, and many suggestions presented. Mr. Manning stated Watermaster staff has put together a draft of the large sheets of notes taken by the designated scribes and those draft notes are available on the back table.

4. Budget Projections

Mr. Manning stated the first quarterly report on budget projections will be presented in November, starting at the Appropriative Pool meeting.

D. INLAND EMPIRE UTILITIES AGENCY1. MWD Update

Mr. Shaw stated Metropolitan Water District (MWD) elected a new chairman, Jack Foley from Orange County Water District, starting at the beginning of 2011. Mr. Shaw noted MWD rates are increasing on January 1, 2011.

2. Peace II SEIR Update

Mr. Shaw stated the Peace II SEIR was approved by the Inland Empire Utilities Agency board on October 6, 2010.

3. UWMP Update

Mr. Shaw stated the Urban Water Management Plan is to be adopted in November.

4. Monthly Water Use Report

No comment was made regarding this item.

5. State and Federal Legislative Reports

No comment was made regarding this item.

6. Community Outreach/Public Relations Report

No comment was made regarding this item.

7. IEUA Monthly Water Newsletter

No comment was made regarding this item.

E. OTHER METROPOLITAN MEMBER AGENCY REPORTS

No comment was made regarding this item.

IV. INFORMATION

1. Cash Disbursements for September 2010
No comment was made regarding this item.
2. Newspaper Articles
No comment was made regarding this item.

V. COMMITTEE MEMBER COMMENTS

Mr. Bowcock stated the Cumulative Unmet Replenishment Obligation (CURO) needs to be addressed because it is a Watermaster problem. Chair DeLoach stated it was noted Watermaster needs to do a monthly update under the CEO Reports. Mr. Manning offered comment on the current CURO numbers and noted this will be a priority for Watermaster. Mr. Bowcock offered comment on future obligations from a legal standpoint. Mr. Manning referenced section 56 of the Judgment and noted this is an item for legal counsel to address at a future meeting.

VI. OTHER BUSINESS

No comment was made regarding this item.

VII. FUTURE MEETINGS

Thursday, October 21, 2010	8:00 a.m.	Special Appropriative Pool Meeting @ CBWM
Thursday, October 21, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, October 21, 2010	11:00 a.m.	Water Quality Meeting @ CBWM
Tuesday, October 26, 2010	9:00 a.m.	GRCC Committee Meeting @ CBWM
Thursday, October 28, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
* Thursday, November 4, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, November 4, 2010	1:00 p.m.	Appropriative Pool Meeting @ CBWM
Thursday, November 4, 2010	2:30 p.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, November 18, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, November 18, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
* Thursday, November 18, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, December 2, 2010	1:00 p.m.	Appropriative Pool Meeting @ CBWM
Thursday, December 2, 2010	2:30 p.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, December 9, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, December 16, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, December 16, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
* Thursday, December 16, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

*** Note: Date changes due to holiday schedules**

The Advisory Committee meeting was dismissed by Chair DeLoach at 10:12 a.m.

Secretary: _____

Minutes Approved: November 18, 2010