

Minutes
CHINO BASIN WATERMASTER
ADVISORY COMMITTEE MEETING

November 17, 2011

The Advisory Committee meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga CA, on November 17, 2011 at 9:00 a.m.

ADVISORY COMMITTEE MEMBERS PRESENT WHO SIGNED IN

Non-Agricultural Pool

Ken Jeske, Chair	California Steel Industries
Brian Geye	Auto Club Speedway
Scott Burton	City of Ontario

Agricultural Pool

Jeff Pierson	Ag Pool – Crops
Bob Feenstra	Ag Pool – Dairy
Pete Hall	Ag Pool – State of California – CIM

Appropriative Pool

Mark Kinsey	Monte Vista Water District
Marty Zvirbulis	Cucamonga Valley Water District
Raul Garibay	City of Pomona
Dave Crosley	City of Chino
Bill Kruger	City of Chino Hills
Mohamed El-Amamy	City of Ontario
Sheri Rojo	Fontana Water Company
Josh Swift	Fontana Union Water Company
Rosemary Hoerning	City of Upland
Charles Moorrees	Santa Ana Water Company
Robert Tock	Jurupa Community Services District

BOARD MEMBERS PRESENT WHO SIGNED IN

Bob Kuhn	Three Valleys Municipal Water District
Steve Elie	Inland Empire Utilities Agency
Charles Field	Western Municipal Water District

Watermaster Staff Present

Danielle Maurizio	Senior Engineer/Interim CEO
Joe Joswiak	Chief Financial Officer
Gerald Greene	Senior Environmental Engineer
Sherri Molino	Recording Secretary

Watermaster Consultants Present

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

Others Present Who Signed In

Jo Lynne Russo-Pereyra	Cucamonga Valley Water District
Ron Craig	City of Chino Hills
John Mura	City of Chino Hills
Michael Hughes	Department of Justice, CIM
Tom Harder	Jurupa Community Services District
Van Jew	Monte Vista Water District

Justin Scott-Coe
Terry Catlin
Craig Miller
John Bosler
Rick Hansen
Seth Zielke
Curtis Paxton
Jose Alire
Eunice Ulloa
Jim Erickson

Monte Vista Water District
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Cucamonga Valley Water District
Three Valleys Municipal Water District
Fontana Union Water Company
Chino Desalter Authority
City of Chino
Chino Basin Conservation District
Law Offices of Jimmy Gutierrez

Chair Jeske called the Advisory Committee meeting to order at 9:06 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 October 20, 2011

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of September 2011
2. Watermaster VISA Check Detail for the month of September 2011
3. Combining Schedule for the Period July 1, 2011 through September 30, 2011
4. Treasurer's Report of Financial Affairs for the Period September 1, 2011 through September 30, 2011
5. Budget vs. Actual July 2011 through September 30, 2011

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – The lease and/or purchase of 781,000 acre-feet of water from San Antonio Water Company to the City of Ontario. This lease is made first from San Antonio's net underproduction in Fiscal Year 2011-2012, with any remainder to be recaptured from storage. Date of Application: September 1, 2011

Motion by El-Amamy second by Kinsey and by unanimous vote

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

II. BUSINESS ITEMS

A. 85/15 RULE POLICY – Information Only

Ms. Maurizio stated the 85/15 Policy was approved unanimously by the Appropriative Pool and there was one minor language change they requested to the policy by removing three words; the copy in the package is the version with the deleted verbiage. Ms. Maurizio stated there was no action taken by the Non-Agricultural or Agricultural Pools. Chair Jeske inquired if, with that adoption, can Watermaster move on to do the Assessment Package. Ms. Maurizio stated that is correct. Mr. Garibay inquired when the Assessment Package would be completed. Ms. Maurizio stated staff is still planning on the January, 2012 date.

No motion was made.

B. PREEMPTIVE REPLENISHMENT AGREEMENTS

Mr. Zvirbulis stated there has been lengthy discussion on this topic this morning and unless anyone wants specific or further discussion on this item, that he would be prepared to make a motion to move this item forward. Chair Jeske noted for the record, a thorough list of the minutes of the prior Watermaster Board meeting, which is why this item is coming before the Advisory Committee, is included in the agenda package. There is a revised agenda item which was sent out subsequently of this meeting package. Chair Jeske asked that all parties make

sure they have the revised version because it sets out the framework for reading the minutes for the discussion. Mr. Zvirbulis stated he would now like to make a motion, and noted he believes it covers everything that was discussed at the earlier meeting this morning. Mr. Zvirbulis moved to approve the signed City of Chino Agreement and authorize approval of the pending Jurupa Community Services District (JCSD) Agreement, subject to their approval and review by JCSD legal counsel for subsequent agreement by JCSD. Moved to authorize Watermaster staff for the development and execution of a consistent agreement with the City of Ontario, with terms consistent with the City of Chino and JCSD Agreements to cover the balance of the purchase of the preemptive replenishment water. All agreements would be subject to terms that are non-precedent setting. Moved to have Watermaster legal counsel file an extension for the Recharge Master Plan filing date of December 17, 2011, out 120 to 180 days and include rules for preemptive replenishment in the filing. Moved to authorize, during the extended court extension period, to develop a workout plan by working with the all the parties in an open workshop process and to authorize Watermaster staff and Watermaster legal counsel to work on developing terms of an agreement with Inland Empire Utilities Agency (IEUA) for a Preemptive Storage Agreement, and other related terms, regarding preemptive replenishment for future water purposes. Counsel Fife stated he would like to ask questions regarding the motion in order to have full clarity. Counsel Fife stated the first part is approval of the Chino Agreement, which has been executed, and the Jurupa Agreement, which has not yet been executed, which is subject to approval of the language by Appropriative Pool legal counsel. Mr. Zvirbulis stated he is not going to speak for Jurupa; however, Jurupa indicated they have not yet signed the agreement and they still needed to review it and continue to work issues out. Counsel Fife stated then the recommendation is that once that work out is complete there is approval and execution without bringing the item back. Mr. Zvirbulis stated that was correct. Counsel Fife stated then the development and execution of a consistent agreement with the City of Ontario and the motion sounded like the idea was that between those three agreements, the intention is that it will use up the rest of the MWD replenishment water. Mr. Zvirbulis stated that is correct. Counsel Fife stated then for that chunk of water there will be no need for an agreement with IEUA. Mr. Zvirbulis stated that was correct. Counsel Fife stated then to request an extension of the filing with regard to the Recharge Master Plan which is currently due on December 17, 2011; the discussion at the meeting this morning was for a 120 to 180 day push out, and it appeared that 120 was too short and asked for 180 days. Mr. Zvirbulis stated that would be fine. Counsel Fife stated then the development of rules and procedures for preemptive replenishment, including a Preemptive Replenishment Agreement with IEUA for future water and not the current MWD water. Chair Jeske stated the last two notations made by counsel were not on the same timeline and wanted it to be clear by having two separate actions. Chair Jeske stated the parties wanted to move quickly with the agreement with IEUA should there be water made available within that 180 day period. Mr. Kinsey stated he did not hear counsel repeat that the three agreements are not considered precedent setting. Mr. Kinsey stated the agreement with IEUA is Preemptive Storage Agreement. Mr. El-Amamy stated he seconded that motion. Chair Jeske stated he wanted to make sure that legal counsel and the recording secretary had all of the motion. It was noted both legal counsel and the recording secretary was clear on the motion made. Counsel Fife stated the motion will be written out as soon as the meeting is over and presented to the maker of the motion for consistency. Mr. Pierson inquired about the long term solution and asked if that was going to come back through the Watermaster process for approval. Counsel Fife stated that was his understanding that, that is the development of a policy and an agreement with IEUA. Mr. Zvirbulis stated that can come back through the Watermaster process and noted the intent is it would be developed through an open collaborative process, and those parties/stakeholders that would be interested in participating would be welcome to participate, inclusive of those Board members that may be interested in participating in those discussions. Chair Jeske stated this would be done with a court filing and be brought through the Watermaster process, and it is not necessary to make that part of the motion; this leaves it open to hold workshops. Counsel Fife stated because there have been questions on this matter, for clarification the understanding from the motion is that while that is coming back through the process, the Jurupa and the Ontario Agreements are not; staff has

authorization to execute those. Mr. Zvirbulis stated that was correct. Mr. Pierson inquired about the previous non-mandated motion made by the Watermaster Board on August 25, 2011 and this motion today. Chair Jeske stated that the City of Ontario is stepping in for IEUA, and the second is the development of a system and protocol through an open process so that this does not become an ongoing issue; these three agreements are not precedent setting and the parties/staff will be developing the program which will be included in the Recharge Master Plan filing. Mr. Zvirbulis stated it is his intent to move all three of those agreements forward to the Watermaster Board at their special meeting on November 28, 2011 for approval; including the City of Ontario Agreement. Mr. Pierson inquired if this was on the Board's agenda today. Counsel Fife stated it is on their agenda for information. Chair Jeske stated for information, unless the Board finds urgency and took action today; they could cancel their special meeting on November 28th and take action at their meeting today. Mr. Pierson inquired by the passing of this motion today, we are going to cover the financial obligations for Watermaster for this preemptive action. Chair Jeske stated that is what he heard. Mr. El-Amamy stated that was correct. Mr. Kinsey stated he does not know if IEUA's board has taken action yet; however, there is a request to IEUA to waive the penalty on the purchase of the water. Mr. Kinsey inquired if IEUA assesses the penalty, then who would pay for it. Mr. Catlin stated he acknowledges IEUA has received a letter from Watermaster requesting that the penalty and interest be waived, and he believes the way this is going to happen is IEUA is going to bring request to the board for a decision after IEUA staff sees there is some resolution or some direction out of Watermaster. Mr. Kinsey stated his question still stands. Counsel Fife stated that is something that has to be discussed by the Appropriate Pool. Chair Jeske stated that is not part of this motion. Mr. Garibay inquired about the CDA agreement in relation to the other agreements. Mr. Zvirbulis stated that is something that still needs to be worked out in the next 180 days. Counsel Fife stated the agreements that are being discussed today are for desalter replenishment only, and these agreements, by this motion, are not precedential and we are then going to move on and develop a broader policy. A discussion regarding this entire matter ensued.

Motion by Zvirbulis and second by El-Amamy, and by unanimous vote

Moved to approve the signed City of Chino Agreement and authorize approval of the pending Jurupa Community Services District (JCSD) Agreement, subject to their approval and review by JCSD legal counsel for subsequent agreement by JCSD. Moved to authorize Watermaster staff for the development and execution of a consistent agreement with the City of Ontario with terms consistent with the City of Chino and JCSD Agreements to cover the balance of the purchase of the preemptive replenishment water; all agreements would be subject to terms that are non-precedent setting. Moved to have Watermaster legal counsel file an extension for the Recharge Master Plan filing date of December 17, 2011, out 180 days and include rules for preemptive replenishment in the filing. Moved to authorize, during the extended court extension period, to develop a workout plan by working with the all the parties in an open workshop process. Moved to authorize Watermaster staff and Watermaster legal counsel to work on developing terms of an agreement with Inland Empire Utilities Agency (IEUA) for a Preemptive Storage Agreement, and other related terms, regarding preemptive replenishment for future water purposes, as presented

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. October 28 Hearing

Counsel Fife stated a lengthy hearing took place on October 28, 2011 with Judge Reichert. Counsel offered comment on the details of the hearing. Counsel Fife noted he felt the questions and presentations given at this hearing made it a very good educational hearing for the Judge. Counsel Fife stated Judge Reichert also took appearances from everyone in the courtroom. Counsel Fife offered final comments on the recent hearing.

2. Restated Judgment

Counsel Fife stated the Restated Judgment was presented to Judge Reichert at the October 28, 2011 hearing as a “receive and file” action. Counsel Fife noted just prior to the hearing, the Non-Agricultural Pool asked that a disclaimer be put on that it was just a receive and file Restated Judgment so that the operative legal document would remain the 1978 Judgment, plus the amendments made throughout the course of time. Counsel Fife stated Judge Reichert indicated that was not how he wanted it done and that he wants the Restated Judgment to be the official document. Judge Reichert asked that Watermaster come back to his court with a motion that presents the document that is being presented to him as the operative legal document; the 1978 Judgment would be vacated and the 2011 Judgment would become the official Judgment. Counsel Fife offered comment on this matter and noted the only real differences would be a reference to page numbers. Counsel Fife stated that will be then be framed as a motion, and then it will be brought through the Watermaster process.

Counsel Fife stated there was an item that came up regarding the interpretation of the CDA Resolution that had not been discussed before which pertained especially to the Agricultural Pool. Counsel Fife stated one of the things the CDA Resolution does is create an administrative process for Agricultural Pool members who may be affected by the operations of the Desalter wells. Counsel Fife stated there are forms to be filled out and there is a process that needs to be gone through with the CDA in order to make a claim. Counsel Fife stated the question the Judge raised was that at the end of that process, as described in the Resolution, the CDA board makes a determination whether the claim is valid or not, and whether the CDA is going to pay or not. The Judge then commented if the CDA was the judge, jury, and executioner – and noted if that was the case, then he would be very uncomfortable if that was the situation. Counsel Fife stated the Judge requested clarification that, that was not the case and that any party that was dissatisfied with the decision of the CDA would then have all their existing legal rights to be able to challenge the determination that the CDA made. Counsel Fife stated his interpretation of the Resolution was that the parties did not forfeit their legal rights, and that the approval of the Resolution did not take away those legal rights. Counsel Fife stated the Judge expressed that it was his understanding too; however, there was no legal representation at the hearing. Counsel Fife stated he indicated to the Judge that this would be a good issue to shore up, and committed to go back and communicate with the CDA counsel and Agricultural Pool counsel, and come back with something so there is no ambiguity if there is a problem. Counsel Fife stated he has contacted those counselors and received clarification that the private well owners do retain all their rights to challenges on CDA decisions. Counsel Fife stated some sort of stipulation or document will need to be provided to the court on this matter to ensure there is a clear record.

3. December 17 Recharge Master Plan Filing

Counsel Fife stated under the October, 2010 court order which approved the Recharge Master Plan the court ordered an update to be provided by December 17, 2011, which is six months following the due date for the Urban Water Management Plan (UWMP). Counsel Fife stated in the 2010 filing Watermaster indicated that when the UWMP come out it could change the Recharge Master Plan so the court requested an update six months after that happened. Counsel Fife stated it is expected to obtain authorization from the Watermaster Board for a 180 day continuance of that filing.

B. WATERMASTER ENGINEERING REPORT

1. Groundwater Model Update

Mr. Wildermuth stated one of the items required by the court order from October, 2010 to be included in this update to the court was an analysis of projected groundwater production and replenishment. Mr. Wildermuth stated this presentation was given to all three Pools; however, based on comments received at those meetings a revised presentation is going to be presented today. Mr. Wildermuth gave the updated Groundwater Production Projection

2011 Update: Preliminary Results presentation in detail. Mr. Wildermuth noted this report was sent this morning to Watermaster, the Chino Basin Water Conservation District, and IEUA electronically, and after their review it is expected to be brought through the Watermaster process. Chair Jeske inquired if it is available on the Watermaster ftp site. Mr. Wildermuth stated this presentation is; however, the report is not because it is an administrative draft to be reviewed by the earlier entities first. Mr. Wildermuth reviewed the Projected Production in the Chino Basin Modified 2010 UWMPs and Efficient Market Assumptions chart in detail. Mr. Kinsey inquired about the section that shows cumulative unpumped rights or negative replenishment obligation of 230,000 acre-feet, and then that assumes all the water currently held in storage, remains in storage. Mr. Wildermuth stated that was correct. Mr. Kinsey stated then that is roughly 240,000 ace-feet. Mr. Wildermuth stated he believes that is about right. Mr. Wildermuth stated there is another table which is really detailed that shows by party. A lengthy discussion regarding Mr. Kinsey and Mr. Wildermuth's comments regarding storage numbers, replenishment obligations, and the presentation ensued.

2. General Electric/City of Ontario Material Physical Injury Analysis

Mr. Wildermuth stated there is a draft report almost completed on the Material Physical Injury Analysis for the General Electric Injection Project. Mr. Wildermuth stated that report will be submitted to Watermaster staff for review shortly, and then it will be brought through the entire Watermaster process in December.

C. CEO/STAFF REPORT

1. RWQCB Basin Plan Amendment

Ms. Maurizio stated this item has been discussed at numerous meetings. Ms. Maurizio stated the concept for this item is Watermaster staff and engineering consultants have been asking the Regional Water Quality Control Board (RWQCB) to amend the Basin Plan so that Watermaster is not responsible to perform so much surface water sampling on the Santa Ana River. Ms. Maurizio stated the cost for that sampling is approximately \$200,000 per year, and this reduction would save Watermaster approximately \$150,000 a year. Ms. Maurizio reviewed the sampling which is being done presently, and then what is being asked for in the reduction in detail. Ms. Maurizio stated it was anticipated the RWQCB would have this item on their December calendar; however, it is understood it has been now placed on the January, 2012 agenda for consideration.

Added: 2. Recharge Update

Ms. Maurizio stated the most recent Recharge spreadsheet is available on the back table for review. Ms. Maurizio reviewed the recharged numbers in detail.

Added: 3. Meeting Date Updates

Ms. Maurizio reviewed the meeting date changes due to the upcoming Thanksgiving and Christmas holidays. Ms. Maurizio stated a Land Subsidence Committee meeting has been added to the upcoming meeting schedule for Wednesday, November 16, 2011 at 1:00 p.m. here at Watermaster.

D. INLAND EMPIRE UTILITIES AGENCY

1. MWD Update

Mr. Miller stated the MWD approved this month the Replenishment Program Policy Principals, and we were successful in changing some of those policy principals and inserting language that reflected the value and investment that's being made in both the groundwater basins; that was very important that be added to those policy principals. Mr. Miller stated the detailed program was supposed to move to the MWD board in December, and that appears to be slowing down, which is good because we need more time to work out the details and the workshops are continuing on for this matter. Mr. Miller stated there is also a workshop coming up on MWD rates.

2. Water Softener Initiative
No comment was made.
3. State and Federal Legislative Reports
No comment was made.
4. Community Outreach/Public Relations Report
No comment was made.
5. IEUA Monthly Water Newsletter
No comment was made.

E. OTHER METROPOLITAN MEMBER AGENCY REPORTS

Mr. Hansen stated, with regard to Mr. Miller's comments, he agrees the process is slowing down. Mr. Hansen stated maybe in December or January Article 21 water may become available, and in his opinion it is not going to make the discounted replenishment water available until they have details on the Replenishment Program in place, which could be in the February or March timeframe. Mr. Hansen offered comment on the Long Range Financial Plan and MWD rate increases.

IV. INFORMATION

1. Cash Disbursements for October 2011
No comment was made.
2. Newspaper Articles
No comment was made

V. COMMITTEE MEMBER COMMENTS

No comment was made

VI. OTHER BUSINESS

No comment was made

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

Pursuant to the Advisory Committee Rules & Regulations, a Confidential Session may be held during the Watermaster Pool meeting for the purpose of discussion and possible action.

No confidential session was called.

VIII. FUTURE MEETINGS

Wednesday, November 16, 2011	1:00 p.m.	Land Subsidence Committee Meeting
Thursday, November 17, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
* Thursday, November 17, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Monday, November 28, 2011	1:30 p.m.	Special Watermaster Board Meeting @ CBWM
Thursday, December 8, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, December 8, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, December 8, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, December 15, 2011	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, December 15, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
** Thursday, December 15, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM

* **Note:** Watermaster Board meeting date change due to the Thanksgiving holiday

** **Note:** Watermaster Board meeting date change due to the Christmas holiday

Chair Jeske dismissed the Advisory Committee meeting at 9:52 a.m.

Minutes Advisory Committee Meeting

November 17, 2011

Secretary: _____

Minutes Approved: December 15, 2011