

**Minutes**  
**CHINO BASIN WATERMASTER**  
**AGRICULTURAL POOL MEETING**

October 22, 2008

The Agricultural Pool Meeting was held at the offices of the office of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on October 22, 2008 at 2:00 p.m.

**Agricultural Pool Members Present**

Bob Feenstra, Chair	Dairy
Gene Koopman	Milk Producers Counsel
Rob Vanden Heuvel	Milk Producers Counsel
Nathan deBoom	Dairy
Glen Durrington	Crops
Pete Hettinga	Dairy
John Huitsing	Dairy
Jennifer Novak	State of California Department of Justice for CIM
Nathan Mackamul	State of California/CIW

**Watermaster Board Members Present**

Geoffrey Vanden Heuvel	Dairy
Paul Hofer	Crops

**Watermaster Staff Present**

Kenneth R. Manning	Chief Executive Officer
Sheri Rojo	CFO/Asst. General Manager
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Mark Wildermuth	Wildermuth Environmental Inc.
-----------------	-------------------------------

**Others Present**

Steven Lee	Reid & Hellyer
Eunice Ulloa	Chino Basin Water Conservation District

Chair Feenstra called the Agricultural Pool meeting to order at 2:10 p.m.

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

**I. CONSENT CALENDAR**

**A. MINUTES**

1. Minutes of the Agricultural Pool Meeting held September 16, 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 Hettinga, second by Durrington, and by unanimous vote*

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

## **II. BUSINESS ITEMS**

### **A. GOVERNANCE**

Mr. Manning stated this item has been placed on the agenda as a result of a filing made to the court relative to the Cucamonga Valley Water District's motion on the Special Referee. Mr. Manning stated in December 2005, the Watermaster Board directed staff to convene a governance committee that was to address the issue of governance. It was determined that the committee would be directed to deal with the issue before December, 2007. During the process of the Peace II negotiations a number of issues were discussed and it was staff's understanding that the issue of governance needed to be placed on hold in order to proceed with Peace II issues only. At the 2007 Watermaster Strategic Planning Conference this matter was discussed in great detail. Following that discussion on governance it was the general consensus by all parties attending that this issue be postponed for five years. The governance committee was no longer relevant to the discussions and Watermaster was directed to leave the issue alone for an additional five years. Based upon that decision, Watermaster staff did not form a governance committee and did not move the issue forward. During a recent filing motion by City of Chino, City of Chino Hills, and Monte Vista Water District the issue of governance was brought up again. In their argument they noted Watermaster had never dealt with the issue of governance as directed by the Watermaster Board. Watermaster staff does not agree with this statement and felt it prudent to bring this matter before the Pools, Advisory Committee, and Watermaster Board to obtain that the issue of governance had been dealt with or to receive a new direction on this issue. Mr. Manning read the motion taken at the last Appropriative and Non-Agricultural pools meeting. A discussion regarding this topic ensued. Chair Feenstra noted his displeasure with opening up this matter and the new judge that will need to make these types of decisions. Mr. Vanden Heuvel offered comments on his recollection of this matter. A lengthy discussion on how to deal with this issue and/or move forward ensued. The Agricultural Pool stated after consideration of the motion made by the Appropriative and Non-Agricultural Pools, this committee would support their motion in this matter.

*Motion by Koopman, second by Novak, and by unanimous vote*

***Moved to support the motion made by the Appropriative and Non-Agricultural Pools, which was to take no action and to only ask the Watermaster Board of directors to formally clarify whether this is still their intent to take action today as they took on January 26, 2006 when the reappointment of the nine member board took place, that would then form a committee to deal with governance at the next reappointment of the nine member board in 2011 or to calendar this item now for the formation of a governance committee and to have counsel review the February 9, 2006 court order, as presented***

### **B. WAIVER OF INTEREST CHARGES**

Mr. Manning stated Watermaster has an obligation as part of the Judgment to invoice for administrative, OBMP recharge debt and Assessments for overproduction and included in the Judgment are provisions by which interest would bear on unpaid balances. Most all parties have responded to paying their assessments in a timely manner; however, there were two invoices that staff applied interest charges to when payment was not received timely 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 is currently drafting a policy for more efficiently

processing delinquent assessments in the future. 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 payment of past late fees, what the Judgment states, and setting a precedent for future interest charges ensued. Mr. Manning stated a new draft policy has been written that deals with this issue and will be presented to the Watermaster Board this month. Mr. Manning stated staff feels with the adoption of a new policy coinciding with the waiver of these two late fees is the best way to rectify this matter, now and in the future. A discussion regarding this matter ensued. Mr. Vanden Heuvel offered comment on this issue and stated he strongly opposes approving the waiver of any late fees because it will send a message to all parties to pay their bills whenever they want, with no consequences, instead of when they are due. It was noted that the Agricultural Pool committee members are not in support of staff's recommendation to waive these two interest invoices.

*Motion by Koopman, second by Vanden Heuvel, and by unanimous vote*

***Moved to not allow interest charges for Arrowhead Mountain Spring Water or Monte Vista Water District to be waived, as presented***

### **C. TMDL STUDY**

Mr. Feenstra stated he has been in consultation with Rob Vanden Heuvel regarding the TMDL Study and has also received some documentation from Geoffrey Vanden Heuvel regarding shared expense. Mr. Manning stated this item comes before this committee today based upon the continuation of Participation in a study that the Agricultural Pool began last year. Mr. Manning noted the memorandum written by Rob Vanden Heuvel to the Agricultural Pool chair and vice-chair regarding this study. Staff is seeking a motion regarding the expense that the Agricultural Pool volunteered to participate in last year and whether this committee wants to still participate in the study. Mr. Manning stated the Agricultural Pool does have the funds in the accounts to cover the amount that is being requested. Mr. Rob Vanden Heuvel stated last year's authorization up to \$20,000 dollars which was applied to three different causes. What is before this committee today is the actual implementation and a portion for continuance, for another year, in the larger stakeholder group. In discussions with Ms. Rojo all monies set aside for this last year project was not fully spent; however, Watermaster's policy is to not carry balances forward and would require a new authorization for the full amount in the amount of \$21,000.00. Mr. Geoff Vanden Heuvel offered comment on the Executive Summary received on this project as to what has been done thus far and preliminary findings on their sampling. A discussion regarding this matter ensued. It was noted by the committee members this needs to be a special projects item and come from the Watermaster general budget. Mr. Manning stated Watermaster does not have this money budgeted and this would have to be presented as a budget amendment through the Watermaster process for approval. Mr. Manning suggested a representative from the Agricultural Pool attend the other meetings to present their position on this item in November.

*Motion by Koopman, second by Mackamul, and by majority vote – Jennifer Novak abstained*

***Moved to approve the continuation of the TMDL Study in the amount of \$21,000.00 and to include the costs be paid as a "Special Agricultural Pool Project" from the current Watermaster budget, as presented***

## **III. REPORTS/UPDATES**

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

#### **1. Santa Ana River Water Right Final Decision**

Mr. Lee noted the Santa Ana River Water Right Permit #21225 has now been officially signed by the State Water resources Control Board, making this decision final and concluded.

2. Sale of Overlying Non-Agricultural Pool Stored Water

Mr. Lee stated this item is still waiting a decision by the parties and no final determination has been made. Mr. Manning stated staff is working with the Appropriative Pool on how they want to move forward on this. The Appropriative Pool does have a sub-committee formed and has been meeting and will have a recommendation soon.

3. Update on CDA Expansion

Mr. Lee stated this item has been discussed at recent Pool, Advisory, and Watermaster Board meetings and noted the City of Chino Hills apprehension at the Advisory and Watermaster Board meetings. Mr. Lee stated Cucamonga Valley Water District filed their motion to disqualify or remove the Special Referee and have somewhat tied that issue into the negotiations regarding supporting Western Municipal Water District's (WMWD) inclusion into the CDA until that decision is rendered. Mr. Lee commented on a letter written by Mr. Thibeault to Watermaster regarding possible Maximum Benefit loss if this situation is not rectified. Mr. Manning stated the CDA board has recommended the approval of the action necessary to bring WMWD into their partnership and that they were also recommending agencies take their individual actions. The recommendation from the Regional Board director was that the Regional Board schedule a hearing to consider whether or not the permit for Maximum Benefit for the Chino Basin be continued based on the lack of progress on the issue of the expansion of the desalters. Mr. Manning stated all parties that need to take individual actions on this matter have scheduled those except for the City of Chino Hills. Some of the actions will be taken to boards in October and others not until the beginning of November; however, no scheduling date from the City of Chino Hills has been seen to date. Without Westerns inclusion by each party taking action, Western is fully prepared to move forward on their own but it could delay activities by as much as two years; this will not make the Regional Board happy. If an action is not taken on the CDA expansion by mid November staff believes the Regional Board will schedule a hearing whereby IEUA and CBWM staff will be there defending why Max Benefit should be continued. This could be of detriment to all the parties including the Agricultural Pool if Max Benefit is not continued. A discussion regarding the City of Chino Hills and this issue ensued.

**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 new yield and storm water estimates for 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 for a previous purpose is a policy decision that needs to be made. This 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 Chino Basin unless one has a water right and if you don't have a water right and pump it, it must be replenished. If you bring a desalter into the basin without a water right, it cannot just go into business and start pumping water; it has to be replenished. Agricultural dedicated 12,000 acre-feet to that desalter which was critical for getting that desalter built that it had a replenishment supply. The Agricultural Pool voted to allocate 82,000 acre-feet of annual safe yield and 12,000 acre-feet of this to the desalter.

At that time the Appropriators stated collectively, we as Appropriators will take upon ourselves the responsibility to provide replenishment water for that 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 was 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. A discussion regarding this topic ensued. Mr. Manning noted there is the technical aspect of this topic and Mr. Wildermuth is giving that report on that and a similar report will be given to the Advisory Committee and Watermaster Board in a few days. 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

No comment was made regarding this item.

##### 2. Recharge Update

No comment was made regarding this item.

##### 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 holiday, so please note those changes on your schedules.

#### **IV. INFORMATION**

##### 1. Newspaper Articles

No comment was made regarding this item.

#### **V. POOL MEMBER COMMENTS**

No comment was made regarding this item.

#### **VI. OTHER BUSINESS**

No comment was made regarding this item.

#### **VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

Pursuant to Article 2.6 of the Watermaster 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 held.

#### **VIII. FUTURE MEETINGS**

October 9, 2008	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
October 21, 2008	2:00 p.m.	Agricultural Pool Meeting
October 21, 2008	9:00 a.m.	Chino Basin Watermaster Hearing, San Bernardino
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

The Agricultural Pool meeting was dismissed by Chair Feenstra at 4:00 p.m.

Minutes Agricultural Pool Meeting

October 21, 2008

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

Minutes Approved: November 18, 2008