

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING
July 21, 2009

The Agricultural Pool Meeting was held at the offices of the office of Inland Empire Utilities Agency, 6075 Kimball Avenue, Chino, CA, on July 21, 2009 at 9:00 a.m.

Agricultural Pool Members Present

Bob Feenstra, Chair	Dairy
Nathan deBoom	Dairy
John Huitsing	Dairy
Rob Vanden Heuvel	Milk Producers Counsel
Gene Koopman	Milk Producers Counsel
Jeff Pierson	Crops
Glen Durrington	Crops
Jennifer Novak	State of California, Dept. of Justice, CIM

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

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Joe LeClaire	Wildermuth Environmental Inc.

Others Present

Steven Lee	Reid & Hellyer
Eunice Ulloa	Chino Basin Water Conservation District
Ryan Shaw	Inland Empire Utilities Agency

Chair Feenstra called the Agricultural Pool meeting to order at 9:09 a.m.

AGENDA - ADDITIONS/REORDER

Chair Feenstra added a business item Transfer & Storage to the agenda for discussion and possible action. It was noted this added item will be addressed directly after the Consent Calendar.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Agricultural Pool Meeting held June16, 2009

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of June 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through May 31, 2009
4. Treasurer's Report of Financial Affairs for the Period May 1, 2009 through May 31, 2009
5. Budget vs. Actual July 2008 through May 2009

C. INTERVENTION INTO THE AGRICULTURAL POOL

1. Intervention into the Agricultural Pool from Guillermo Hurtado through the Well Used by Alfredo Jara's Mountain Green Nursery

D. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – The lease and/or purchase of 765 AF from San Antonio Water Company to the City of Ontario. This lease is made first from San Antonio's net under-production in Fiscal Year 2008-09, with any remainder to be recaptured from storage. Date of application: June 30, 2009

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

Moved to approve Consent Calendar A through D, as presented

Added Item:

Chair Feenstra stated there was an auction workshop held on July 16, 2009 that Mr. Koopman attended on behalf of the Agricultural Pool. Mr. Koopman stated the workshop was regarding a Transfer and Storage Agreement and noted he has no problem with the agreement or auction process. Mr. Koopman stated his issue is with the possibility of moving water out of the basin without replenishment Mr. Koopman commented on this potential export as being a onetime transaction and asked legal counsel for their input. Counsel Fife stated this transaction was not defined as supplemental water and the papers that were filed with the court on July 20, 2009, were revised from the paperwork in the meeting packet to reflect comments received at the recent workshop. Counsel Fife stated the principal revision to the export section was, to add language both to the motion and to the proposed order, to make it clear that this is a onetime situation and cannot be used as precedent for any other export proposal. Counsel Fife stated any refilling of the storage account after this initial 36,000 acre-feet is withdrawn, falls under whatever rules apply to whatever the water is used to refill it. Counsel Fife stated this is a unique 36,000 acre-foot chunk of water and that anything that is done regarding export does not create precedent for anything else. A discussion ensued with regard to this matter. Mr. Koopman offered comment on the Agricultural Pool abstaining from voting on this matter and noted a position needs to be taken either for or against this item today. A discussion regarding the cost of replenishment water and how that costs relates to this matter including export possibilities ensued. Chair Feenstra inquired if there were any further comments or questions prior to calling for a motion. A discussion regarding recapture plans ensued. Ms. Novak offered comment on the interpretation of the documents being considered. A discussion regarding improvements that will result from the sale of the water ensued. The Agricultural Pool members asked their attorney to comment on this matter. Mr. Lee stated he was tasked to research this matter including reviewing the Judgment. Mr. Lee stated he did this task in a manner to see how Judge Wade might be looking at this situation and he feels the Judge will be looking at the written word. Mr. Lee stated the Judgment does not have anything specifically about export in it other than it was envisioned and was specifically put in Exhibit H which relates to the Appropriative Pool and then Exhibit G which relates to the Non-Agricultural Pool. Mr. Lee offered comment on his findings and what he felt Judge Wade will be looking for to make a ruling. A discussion regarding Mr. Lee's comments ensued. Chair Feenstra stated this pool has an opportunity to remove our abstention and called for the question. Mr. Koopman stated his motion would be to file with the court a brief stating the Agricultural Pool has no problem, with any part of the storage and recovery program but the Agricultural Pool would like to have his attention focused on the ability to export this water without recharge and the possible long term affect, not on water supply, but on policy as far as the Chino Basin. Ms. Novak stated the Judge rules on the law and on what is presented to him or her from the Pools and from Watermaster staff. Ms. Novak stated the policy should be determined in-house and in this situation, a brief could be submitted to the court explaining the Agricultural Pool's abstention. A discussion regarding Ms. Novak's comments ensued. Counsel Fife stated if this pool files something with the court then Watermaster will have to respond and then offered comment on what the response would look like. Mr. Lee stated Ms. Novak had additional language that could possibly be added to Mr. Koopman's motion regarding filing a brief explaining the Agricultural Pool's abstention. It was noted that the original motion by Mr. Koopman was rescinded and the new motion which was read by Mr. Lee.

Motion by Novak, second by Vanden Heuvel, and by unanimous vote

Moved to have the Agricultural Pool file a brief explaining the Agricultural Pool's earlier abstention on the basis of needing additional information following the workshop even though many of their concerns were addressed; however, the Agricultural Pool maintains a long term policy issue of any export from the basin. The Agricultural Pool understands in this particular case there has been an analysis made for broad public benefit which appears to meet that in the sale of this onetime block of water; however we want to explain that we still have policy concerns in the future and don't want any precedential value attached to this one block of sale of water, as presented

II. **BUSINESS ITEM**

A. **WATERMASTER AUCTION**

Mr. Manning stated in order for Watermaster to move through this process of establishing and conducting an auction, staff feels it necessary to bring on a professional that deals in the area of auctions. Staff is recommending bringing on FTI and Harold Lea for the purpose of conducting the auction. Watermaster did speak with four auction agencies and staff feels FTI and Harold Lea are the best organization for the job. Mr. Manning noted there is a comprehensive staff report in the meeting packet that covers this topic in greater detail. Mr. Manning stated there is another workshop scheduled for August 5, 2009 and if the Board retains this firm and individual to act as our administrators of the auction process they will be at that workshop to go through the details. A brief discussion regarding costs ensued. Ms. Novak asked about voting on an item the pool just abstained from regarding the auction process and a discussion regarding this situation ensued. It was decided the Agricultural Pool wants their say in the consultant being hired to administer the auction.

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

Moved to approve retaining a professional consultant to administer the water auction, as presented

B. **BUDGET TRANSFER**

Ms. Rojo stated the staff report included in the meeting packet is generated from the process that is gone through with our consultants as we review our project budget and expenses. As a result, there are times when budget transfers need to take place. Ms. Rojo stated Watermaster staff does review several of the budget items to track the progress that is being made on a monthly basis. Ms. Rojo noted the staff report gives a breakdown on why staff is able to shift money away from some categories and why monies are needed to be added to other categories. A discussion regarding this matter ensued.

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

Moved to approve budget transfer T-09-07-01 for OBMP Condition Subsequent No. 7, Hydraulic Control Monitoring Program Water Quality Committee, and Storage Program to OBMP Data and CEO Requests, OBMP SOB Report, Groundwater Quality Monitoring Program, and Recharge Master Plan, as presented

C. **REVISED FORMS**

Mr. Manning stated this item was part of the CEO Report at last month's meeting. Ms. Maurizio gave a presentation on the newly revised forms. Mr. Manning stated Ms. Maurizio has been working on revising these forms at the request of producers over the last few years by the parties to provide more user friendly ones. Ms. Maurizio stated after the Advisory Committee meetings last month there were no comments received back on the forms presented; consequently the forms are the same as previously presented.

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

Moved to approve revised Rules & Regulations forms for Water Transfers and Land Use Conversions, as presented

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. June 29, 2009 Hearing

Counsel Fife stated the June 29, 2009 hearing took place, making it the third hearing with Judge Wade. Counsel Fife noted the hearing went fairly quickly and was for all intent and purposes an informal hearing. Unfortunately Judge Wade announced at that hearing, he was going to be retiring in September and would not be keeping our case. In the September/October time frame the process of securing another judge will begin. Counsel Fife stated he has had some dialog with other attorneys of the parties and they expressed various concerns about this matter. Counsel Fife stated Judge Wade does want to hold the fourth hearing. That hearing will be regarding Program Elements 7, 8, and 9. Program Elements 8 and 9 are the storage elements of the OBMP and coincidentally Watermaster needs to be submitting the Template Storage Agreement to court for approval meaning the last hearing can be used to submit items for more than just the Program Elements. The next hearing will be on August 11, 2009 in San Bernardino at 9:30 a.m. and that notice has been sent out. Counsel Fife stated a pleading regarding the motion for approval for the Template Storage Agreement needs to be filed with the court by July 20, 2009 and a draft of that pleading should be sent out shortly for comment. This draft pleading can be discussed at the upcoming Watermaster Workshop on July 16, 2009. A discussion regarding the next judges' term ensued. Mr. Manning commented on Judge Wade's comments made at the last hearing regarding the hearings and his desire to have a clear record that the new judge could draw from that was relevant and recent. A brief discussion regarding this matter ensued.

B. ENGINEERING REPORT

1. Recharge Master Plan Update

Mr. LeClaire stated Mr. Wildermuth will give the Recharge Master Plan update at the July Advisory Committee meeting.

2. CEQA Modeling Assessment of Peace II

Mr. LeClaire stated Mr. Wildermuth will give the CEQA Modeling Assessment of Peace II at the July Advisory Committee meeting.

Added Report:

Mr. Manning stated he asked Mr. LeClaire to give a presentation on Chromium in the Chino Basin at this pool meeting from a request made at a previous meeting from the Agricultural Pool committee members. Mr. LeClaire gave the presentation Hexavalent Chromium in Chino Basin. During the presentation Mr. LeClaire distributed a copy of the Santa Ana Regional Water Pollution Control Board minutes dated June 6, 1958. A discussion regarding Mr. LeClaire's presentation ensued. Chair Feenstra stated a discussion regarding some additional costs that may be incurred due to some further testing of wells and asked if this would be a discussion for now or during closed session. Mr. Manning stated it would be better if this matter was discussed in closed session.

C. FINANCIAL REPORT

1. Year End Reporting

Ms. Rojo stated the Land Use Conversions are done and there are some Land Use Reversions being reviewed. Production reports have been sent out and they are due to be received at Watermaster by July 15, 2009. Ms. Rojo noted Voluntary Agreements is something staff is still working on to tie up the year end, as well as obtaining all the water transaction information for the past fiscal year. Ms. Rojo stated as soon as those items are handled, staff will be sending out the Water Activity Reports.

D. CEO/STAFF REPORT1. Legislative Update

Mr. Manning stated a detailed legislative report will be given at the July Advisory Committee meeting. Chair Feenstra inquired about the state's budget and Prop 1A funds update and Mr. Manning stated he will have more information on these topics at the Advisory Committee meeting.

2. Recharge Update

Mr. Manning stated the most current recharge spreadsheet is available on the back table for your information and review.

3. Watermaster Policies

Mr. Manning stated this is an information only item and this item will be seen more in the upcoming months. Mr. Manning stated Watermaster operates by using a variety of different documents regarding procedures and operations; staff is attempting to consolidate those in an actual Policy Manual. This manual will come to you in two segments. First there will be those that are easily identifiable and non-controversial; after that, a series of additional policies that will have greater implications and will need discussions and/or input will be brought forward. This will then become a regular part of the agenda as this manual is refined.

IV. INFORMATION1. Newspaper Articles

Chair Feenstra commented on a recent Inland Empire Utilities Agency newspaper article in the Los Angeles Times.

V. POOL MEMBER COMMENTS

Mr. Koopman inquired into the Agricultural Pool water traded for recycled water to farming interests and if there was an agreement on this with Watermaster. Mr. Manning stated there are a set of rules that Watermaster staff follows as it relates to voluntary agreement. Mr. Koopman asked if at the next meeting the agreements could be reviewed. Mr. Koopman inquired about water servers, who are doing what and at what costs, and asked if that could also be discussed at the next meeting. Mr. Manning stated Ms. Maurizio can put that together. A discussion regarding this matter ensued.

VI. OTHER BUSINESS

No comment was made regarding this item.

The Agricultural Pool meeting convened a confidential session at 11:12 a.m.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

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

Chair Feenstra noted there was no reportable action resulting from the confidential session and asked that the confidential session be placed first on the August agenda.

VIII. FUTURE MEETINGS

July 9, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting @ CBWM
July 16, 2009	10:00 a.m.	Stored Water Auction Workshop @ CBWM
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 @ CBWM
July 23, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
July 23, 2009	1:00 p.m.	Recharge Master Plan Workshop #3 @ CBWM
July 28, 2009	9:00 a.m.	GRCC Meeting @ CBWM

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August 13, 2009	8:00 a.m.	MZ1 Technical Committee Meeting @ CBWM
August 13, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting @ CBWM
August 18, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA

The Agricultural Pool meeting was dismissed by Chair Feenstra at 12:03 p.m.

Secretary: _____

Minutes Approved: August 18, 2009