

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING

April 8, 2010

The Agricultural Pool Meeting was held at the offices of the office of Inland Empire Utilities Agency, 6075 Kimball Avenue, Chino, CA, on April 8, 2010 at 9:00 a.m.

Agricultural Pool Members Present Who Signed In

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

Watermaster Board Members Present

Paul Hofer	Crops
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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
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Others Present Who Signed In

Steven Lee	Reid & Hellyer
Marsha Westropp	Orange County Water District
Ryan Shaw	Inland Empire Utilities Agency
Tom Love	Inland Empire Utilities Agency
Ken Jeske	City of Ontario
Scott Burton	City of Ontario

Chair Feenstra called the Agricultural Pool meeting to order at 9:15 a.m.

AGENDA - ADDITIONS/REORDER

There were no additions or reorders made to the agenda.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Agricultural Pool Meeting held March 11, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of February 2010
2. Watermaster Visa Check Detail for the month of February 2010
3. Combining Schedule for the Period July 1, 2009 through February 28, 2010

4. Treasurer's Report of Financial Affairs for the Period February 1, 2010 through February 28, 2010
5. Budget vs. Actual July 2009 through February 2010

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – Jurupa Community Services District has agreed to purchase 1,200 acre-feet of water from Santa Ana River Water Company's annual production right, then any additional from storage. Date of Application: March 5, 2010
2. **Consider Approval for Notice of Sale or Transfer** – Cucamonga Valley Water District has agreed to lease 2,500 acre-feet of water from the City of Pomona's net underproduction, if any, with the remainder from Pomona's local storage account. The water is to be placed in Cucamonga Valley Water District's Excess Carryover account. Date of Application: February 22, 2010
3. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 5,085.000 acre-feet of water from the City of Chino. The transfer will be made first from Chino's net under-production in Fiscal Year 2009-10, with any remainder to be recaptured from storage. This transfer will solely offset Fontana Water Company's current Cumulative Unmet Replenishment Obligation (CURO). Date of Application: March 18, 2010
4. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 5,000.000 acre-feet of water from the Cucamonga Valley Water District (CVWD). The transfer will be made from CVWD's storage account. This transfer will solely offset Fontana Water Company's current Cumulative Unmet Replenishment Obligation (CURO). Date of Application: March 18, 2010
5. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 1,000.000 acre-feet of water from the Santa Ana River Water Company (SARWC). The transfer will be made first from SARWC's net under-production in Fiscal Year 2009-10, with any remainder to be recaptured from storage. Date of Application: March 3, 2010
6. **Consider Approval for Notice of Sale or Transfer** – On March 31, 2010, Watermaster received Consolidated Water Transfer Forms 3, 4, and 5 with Praxair, Inc. as the Transferor and the City of Ontario (as an Overlying Non-Agricultural party) as Transferee in the amount of 426.446 acre-feet--a permanent transfer of all but one acre-foot of its share of safe yield. Also to be transferred are all of Praxair's post-June 30, 2007 stored, carry-over and unpumped groundwater. Date of Application: March 31, 2010

Bob Feenstra: Board members you have before you the minutes and the consent calendar. Ugh are there any comments before I call for a motion?

John Huitsing: I have a question.

Bob Feenstra: Yea?

John Huitsing: I have a question on the cash disbursements detailed report.

Bob Feenstra: Do you want it lifted John or do you just want to bring it up now before... if we are going to discuss it, I think Ken don't we shouldn't we lift it?

Ken Manning: If it's just a very simple question, you can take as part of the consent calendar.

Bob Feenstra: Do you have a simple question?

John Huitsing: Just questioning the two items that say general journal of October 1, 2008 and on the second page October 1, 2010; there is a \$7,000 dollar item and a \$25,000 dollar item.

Ken Manning: Which page are you on. You're on page 12?

John Huitsing: My page 11.

Ken Manning: Okay.

John Huitsing: About 2/3 of the way down.

Bob Feenstra: We should have fun with the new financial officer and put it to him.

Ken Manning: Actually those journal entries I recall are payroll journal entries.

John Huitsing: From October '08?

Ken Manning: Umm are we looking at the wrong...page 12 it's...

Jennifer Novak: There are four actually; two on page 11 – two on page 12 and you are right the first two say 10 of '08.

Ken Manning: I am sure that is incorrect.

Nathan deBoom: It's possible that there's a formatting issue with excel and every other number is a journal entry number and then all of a sudden it turns into a date.

Ken Manning: Yea it could be that... these are journal entries that were prepared by the interim CFO and it could be that on his computer or something he had some sort of a formatting error. But all those journal entries were payroll related and they were for '09, they weren't for '08. Or '09 or '10; they were during that transition period. These would have been for actually '10 – February 2010.

Jennifer Novak: I did go back to prior agenda packages and I did notice that there are usually are a couple of things called general journal payroll. Umm and this just doesn't fall in the same format.

Ken Manning: Yea I think probably in his computer there must have been some sort of formatting; it appears to fairly consistent category.

Jennifer Novak: So Ken is the representation that these are umm just payroll like we see in other budgets?

Ken Manning: Yes they are exactly the same – exactly the same as we see in others so.

Jennifer Novak: Mr. Chairman I have a question regarding item C.

Bob Feenstra: Do you want it pulled or a simple question?

Jennifer Novak: Umm sure. I actually...I

Bob Feenstra: Oh sure yes you want it pulled?

Jennifer Novak: Okay, I will pull it.

Bob Feenstra: Any other questions? That a...

Glen Durrington: I have a question on item C also.

Bob Feenstra: Okay great we'll...

Glen Durrington: What's the difference in a lease and a sale? Is a lease we pay in time or what?

Ken Manning: You want to pull the item and we will take...

Bob Feenstra: I think we are going to pull and...

Ken Manning: Actually going through there's a variety of different transactions types going on here and I can explain them all.

Glen Durrington: Okay.

Bob Feenstra: Well why don't we pull item C ugh, John do you want to do anything more your question.

John Huitsing: I got an answer.

Bob Feenstra: Okay we are pulling item C; I think we still call for approval?

Ken Manning: Sure yea of A & B.

Bob Feenstra: A motion is in order to approve the consent calendar withholding item C. Can we have such a motion?

Jennifer Novak: I'll move approval.

Bob Feenstra: Is there a second?

Glen Durrington: I'll second it.

Bob Feenstra: Any questions or comments? All in favor signify by saying aye.

Group: All aye.

Bob Feenstra: Opposed same sign. Okay, Jennifer you are on.

Jennifer Novak: Alright, you Ken, I want to know if you want to kind of start with a explanation of what the different transactions are because I do have some questions that are specific to how the water is going to be used in addition, I think there is an accounting discrepancy for how it may be used so...

Ken Manning: Okay the transactions fall into a variety of different categories. There are some standard transactions going on here and let's take them one at a time. Jurupa Community Services District is purchasing 1,200 acre-feet from Santa Ana Water Company; pretty much standard transaction that goes on here at Watermaster and it's a transfer in this particular case it's a transfer to take of their pumping, excess pumping. In item two you got Cucamonga Valley buying 2,500 acre-feet from the City of Pomona; same kind of a transaction going on there. Item three is Chino Basin is purchasing 5,000 acre-feet from the City of Chino; this is a transaction along with number four. These are transactions that were actually negotiated by the Fontana Water Company. Actually its number five is in a similar category – no five is a little different let me take five separately. Three and four are transactions that are actually negotiated by Fontana Water Company. Under normal circumstances, in the past, those transactions were one agency is negotiating with another for a purchase; those are done outside of Watermaster and Watermaster just notifies that the transaction took place. And the water that is being negotiated for is then put into the account for the agency that is purchasing the water and the money exchanges is completely outside of Watermaster and Watermaster then notifies people of what that transaction numbers, those numbers look like in the assessment package that comes out later in the year. The difference here is that because this

purchase of water, both three and four are being used to offset a cumulative unmet replenishment obligation that occurred last year and there is this unmet replenishment obligation. Watermaster has already collected the money to buy that water on behalf of the parties within the Chino Basin to meet their cumulative unmet replenishment obligation; that money resides with Watermaster. Fontana wishes to use the money that they have in our account to make this transaction and so Watermaster only has two options. We can either refund the money back to Fontana to make the transaction, which we think is not a prudent thing to do or they can do the transaction using Watermaster essentially as the bank and then we notify Fontana that if their purchase is in excess of the amount that have on file for them, or on account for them, then they are responsible for the difference. In this particular case the water transaction is taking place and there is a very minor amount of different between them and so we are working with Fontana; that will all show up in the assessment package as an accounting process.

Gene Koopman: It's a dollar difference not a water difference?

Ken Manning: It's a dollar difference in the price that they are paying for the water as opposed what we charged them for the water. And not very much by the way; it's fairly similar to the transactions that Watermaster would take. But because Fontana made the transaction or the deal with the agencies, in both three and four that water is credited 100% to Fontana's cumulative unmet replenishment obligation as opposed to number five which is a transaction where Watermaster made the deal with Santa Ana Water Company. In this deal, all terms are above board; we show all the terms of the transaction and that water that Watermaster is purchasing goes to meet the total cumulative unmet replenishment obligation of which Fontana is about 80% of. So all cumulative unmet replenishment obligations are met with the purchase in number five, where three and four only go towards Fontana's. Now this is something that takes place because at this point in time, water is not available for us to buy at a price that parties want to buy it from the Metropolitan Water District. And so the transactions that they are taking between themselves are transactions that are better financially for them and so that's the reason we are doing it. But Watermaster because we have already collected the money and we don't want to write checks back to the agencies, this money is going through Watermaster as the bank. Now number six is a completely different animal. Number six is a purchase and Mr. Jeske is here to explain any details that you might have but Praxair and City of Ontario have made a transaction where Ontario is actually buying the Overlying Non-Ag rights all but one acre-foot. And this is the beginning of a process that starts in the pools, where the pools review this transaction; this is very similar to the Sunkist transaction you might remember from last year. In this particular case Fontana has made a deal to buy the water right rather than a lease of this water. Excuse me Ontario from Praxair and so Ontario is getting the water right. Now after it goes through the pools it will then sit for a month and in May the Advisory Committee and Board will then take action on this particular transaction and then there's a 90 day appeal period by anybody within Watermaster. So this transaction takes a lot longer to take place but it is very similar to what happened with Sunkist. I don't know if Ken wants to add anything to that explanation or if you have any questions, I'm sure he will be glad to answer them.

Ken Jeske: If there's a question also in the audience is Mr. Stubbings from Praxair this is quite allowable under the Judgment. We're both parties of the Non-Agricultural Pool and we are allowed to buy and sell rights as well as stored water so it's very similar with one difference, the Sunkist transaction Ontario bought the company lock-stock-and-barrel, bought all the property of Sunkist and then intervened into the pool as an overlyer. Now that they're in the pool they don't need to do this so obviously Praxair is a much bigger company than the City of Ontario is, so it's strictly a business deal between Praxair and the city where the city is purchasing and will then put to use for beneficial use an exercise those rights. It does not impact whatsoever the current controversy of the pre July 2007 stored water; none of that water is part of this transaction and... There were questions just a few minutes at the Non-Ag Pool. The negotiations began long before that controversy and I think Mr. Stubbings is smiling in agreement so it's strictly an allowable business deal and of course Ontario and Praxair would well ask that you move and approve the item and move it forward in the process.

Bob Feenstra: Let's start backwards of we can Ken. Glen do you have any questions?

Glen Durrington: Well I am just concerned about that purchase or lease at the top and at the bottom of the paragraph says lease and then water... (the recording secretary can't understand what is being said) and then pick it up and running?

Ken Manning: Which one are you talking about?

Glen Durrington: Ugh second one under C2.

Bob Feenstra: We've noticed the sale...

Ken Jeske: I know how those work because I have done a whole number of these. Ontario for many years was an overproducer; although, is not anticipating that last year and this coming year too. Instead of an outright purchase of rights which what number six is, quite frequently an overproducer in the Appropriative Pool will do an annual lease of rights from another Appropriator so they may use the water in that year. So they are just leasing one annual year of pumping rights; they are not buying and exchanging the rights and they're not doing it out of stored water. They are just leasing the pumping rights for a year. It's kind of like an assignment that happens with agricultural interest that use um no potable recycled water.

Ken Manning: Umm hmm.

Ken Jeske: It's kind of like that one year...

Bob Feenstra: I think we are through with Ontario. Do you have anything to add to that on item 2?

Ken Manning: No I think Ken did a good job explaining it. It's something that we deal with all the time in terms of moving...

Bob Feenstra: Glen, I mean Gene.

Gene Koopman: Ken, you know ugh, there keeping one acre-foot of CFD, I guess evidentially they want to be a member of the Overlying Non-Ag and they do have the ability then to pump but basically if they pump anything over one foot they have a replenishment responsibility.

Ken Jeske: They have a responsibility, replenish or purchase.

Gene Koopman: They just want to have the ability to...

Curtis Stubbings: Yea and I am Curtis Stubbings with Praxair and we have no intention of pumping any of our own water, we haven't pumped for I think thirty plus years. Ah and ah that ah really to be honest the one acre-foot was because of the dispute going on with the pre 2007 water; we just thought it prudent to hold on to one acre-foot to make sure our foot was in the pool.

Bob Feenstra: It may gain value. Ah Jeff.

Jeff Pierson: Ah Ken this is a ah a purchase of Overlying safe yield on an annual basis? Overlying Non-Agricultural use. Does this water then for beneficial use become an overlying type of a use or is it merged with... How is this water going to be used?

Ken Jeske: That's correct it remains as use in the Non-Agricultural Pool for uses that are eligible in that. The city as an Overlying Non-Agricultural use has a number of demands that fit within those categories. So the city will pump this water and use it for those demands.

Jeff Pierson: What are some of those demands?

Ken Jeske: Some of the demands um are municipal uses on municipal properties. Um uses for...

Jeff Pierson: Non consumption? I'm...

Ken Jeske: There the it, the water is termed consumed every year when it's pumped and used. It's primarily used for landscaping purposes on city owned properties and city managed properties such as landscaping medians in the commercial industrial areas of the city where the city either participates in property owner associations or outright owns the medians and landscaping. Such as municipal facilities, surrounding community centers, community centers where there is activities that take place and then cities have wide range of properties that would fall within those categories.

Jeff Pierson: So this, this water could be sold to landscape lighting and maintenance districts to use within their overall CFD area?

Ken Jeske: The city is not had to do that. The cities on demands have been in excess of the amount of water rights that they've held. But that could be a potential, if the ownership included the city. At this time the city has not had to do that; it keeps track of all the meters it has and it keeps track of the demands through the city meters. And tracks the water separately much like meters that are currently in the Agricultural Pool.

Ken Manning: Starting last year they've supplied us with a list of those meters and the... and we keep track of their Overlying Non-Ag use separately from their Appropriative use.

Jeff Pierson: Okay that's fine.

Bob Feenstra: Okay Jeff a Glen do you have anything more and I'm going to go to Jennifer.

Glen Durrington: Well I was just going to ask. Is a recycled water becomes more usable in the coming years had you know centuries that had, doesn't that water becomes available?

Ken Jeske: Well ugh, there's a lot of smart people in this room and Glen you certainly on top of that list. Of course.

Glen Durrington: Really – oh thanks.

Ken Jeske: If the city um could supply Non-Agricultural, non-potable water to its Non-Agricultural use, that's why they've retained – they even call it City of Ontario and City of Ontario Non-Ag in the Watermaster annual report. Sure they could do an assignment back and forth much like is done with the Agricultural Pool and much like we had done before; Ontario had done it before with Sunkist for example. Supplied them water and then done an assignment agreement back so... So some of that could occur in the future where appropriate but again that's all provided for in the Judgment and the Rules & Regs.

Bob Feenstra: Is that satisfactory?

Jeff Pierson: Yep.

Bob Feenstra: A Jennifer?

Jennifer Novak: No actually the questions that have been raised were...

Bob Feenstra: Covered all.

Jennifer Novak: Were questions that I had. I mean how how are we keeping track? You didn't need the water for Non-Ag use um what happens to it um those were some of the questions that I did have.

Ken Jeske: Well the last the last one I didn't answer, the same thing would happen to it, is what's happened to Praxair all this time when they have not been able to exercise their rights, they put it into storage.

Ken Manning: Umm hmm.

Bob Feenstra: Before we call for a motion approving item C ugh I want everyone to be aware that Nathan from CIM has been seated so he can make a motion, he can second, he can also...

Jennifer Novak: Oh no that is Rick from MH ah Geometric.

Bob Feenstra: I blew it.

Jennifer Novak: But before you move off of item C um I'm not done from this.

Bob Feenstra: Oh I thought you were totally satisfied.

Jennifer Novak: I just want to confer with anyone else. Um I just want to confer with Mr. Manning that what he went through with respect to what was happening with this water. So if I understand it correctly, Fontana Water Company having over produced and engaged in some deals so that it could um secure water to pay essentially for it's over pumping.

Ken Manning: Yes.

Jennifer Novak: I'm using the terminology very loose and I apologize. Um so the fact that um we're looking at Watermaster purchasing 10,085 acre-feet of water which is more than the cumulative unmet replenishment obligation of Fontana.

Ken Manning: Actually it's not.

Jennifer Novak: Well okay I'm sorry... what I was reading in here was and it's a discrepancy and some places it's to partially fulfill Fontana's CURO and then I think it also was and I don't know where I got the 9527.581 number.

Ken Manning: Yea that's for one year. Because there's now, it's cumulative and it keeps growing. That's why it's....

Jennifer Novak: Got it.

Ken Manning: That's why it's still far in... below what their total cumulative unmet replenishment obligation is...

Jennifer Novak: Okay so so let me take a step back so their obligation for last year was this 9500 number um...

Ken Manning: Correct.

Jennifer Novak: And um and therefore there is going to be some excess and in this transaction; however, they have an obligation that's been carrying over from prior years.

Ken Manning: Umm Hmm.

Jennifer Novak: Um and either you will work with them on whether they need to pay for that or they've already paid for it and you're just going to apply it to the...

Ken Manning: Yea they've already paid us for it and we have the money in an account and we've kept track of their interest separately and the interest applies to it. And then there's within the assessment package there will also be a transaction that's known as the 85/15 that also has to be applied to anything over and above what we haven't paid for.

Jennifer Novak: Okay and then the 1,000 acre-feet is going for just a general um replenishment obligation that Watermaster...

Ken Manning: Correct.

Jennifer Novak: That Watermaster currently has on the books of which Fontana appears to be a great portion.

Ken Manning: Yes, yes.

Jennifer Novak: Okay. Um and this is just replenishment because of over producing and not any other commitments that Watermaster has made to replenish?

Ken Manning: Right.

Jennifer Novak: Such as MZ1 replenishment?

Ken Manning: Yea this is because it is out of storage it doesn't have anything to do with the MZ1 6500 acre-foot obligation; it does not satisfy any of that.

Jennifer Novak: Okay so there are they are other then obligations replenishment that Watermaster has on the books...

Ken Manning: Yes

Jennifer Novak: For which it would need water eventually.

Ken Manning: Correct – wet water.

Jennifer Novak: Wet water. Okay. I'm good.

Bob Feenstra: You're good.

Jennifer Novak: Hmm.

Bob Feenstra: Any more questions or comment. We have item C; questions have been answered. Do we have a motion to approve?

Jeff Pierson: Motion to approve.

Jennifer Novak: I'll second.

Bob Feenstra: Any questions? All in favor signify by saying aye.

Group: All aye.

Bob Feenstra: Opposed same sign. Before we move on, a quick question of our director in the audience, Paul Hofer; we plan to have a closed session ugh-ugh sometime during the meeting today, are you able to stick around? Or are you on a schedule?

Paul Hofer: I will stay until about a quarter till eleven.

Bob Feenstra: Okay we will do it long before then; we should be done in about five minutes. With that then Pete did you have a question?

Pete Hall: Yea Mr. Chairman, I would like to make a request that um a couple months ago Joe LeClaire gave a nice presentation and it showed all the wells underground.

Ken Manning: The 3D...

Pete Hall: The 3D version. I would like to make a request that they come back at the May 13th meeting and show that again. I have some executive staff from the state that would be in attendance and I'd like to share that with them.

Bob Feenstra: I think that's a great idea.

Several people talking: Recording secretary can't understand all the people talking at the same time.

Ken Manning: Yea it's a great presentation and we would love to give it again.

Pete Hall: Okay.

Ken Manning: And in fact, I'm going to talk a little bit about it just in my comments... I'm going to refer back to that same slide – the one you are talking about again.

Bob Feenstra: Yea Pete said it was in incredible presentation and we all should really make use of it so we will do that at that meeting so if you would schedule that on the agenda and you will make contact with Joe as well as I will also. Thank you Pete.

Pete Hall: Thank you.

Bob Feenstra: Okay with that I think we can continue.

II. BUSINESS ITEMS

A. **AGREEMENT TO FORM A TASK FORCE**

Discussion Regarding of Agreement to Form a Task Force to Conduct the Annual Emerging Constituents Characterization Program for the Santa Ana River Watershed (Emerging Constituents Program). No Action is Required for April. Staff Will Provide Further Report and Seek Guidance from the Watermaster Board

B. **AMENDMENT NO. 1 TO AGREEMENT TO FORM A TASK FORCE**

Discussion Regarding Approval of Amendment No. 1 to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed (Basin Monitoring Program), No Action is Required for April. Staff Will Provide Further Report and Seek Guidance from the Watermaster Board

Ken Manning: Yea item II we have two different agreements that are on the agenda for only really discussion because Watermaster received them and we wanted to give the parties an opportunity to look at them at the same time that Watermaster is asking some questions. These are agreements that are from the Santa Ana Watershed Project Authority (SAWPA) there are two of them. The first one is a contract for participation with them in an emerging constituent's characterization program. The second one is a the basin monitoring program – nitrogen and total dissolved solids. Let's take B first. B is actually a requirement of Max Benefit and although we are looking at the contract and the content of the contract, it's really a something we have to do. It's a requirement of Max Benefit and it's something we think is prudent. It is not duplicative of anything that we're doing in Watermaster, it is additive to the monitoring program that we have. We count on this information to added to our

database so it's really... when we come with this in May for approval, my sense is we'll be looking at the contract for content but essentially Watermaster I'm sure will be recommending that item B be approved by the Pools and eventually by the Board. Item A is a different subject and the reason why we are putting these on for discussion is that Watermaster is really looking at any reason why Watermaster and as a matter of fact IEUA, we would suggest would probably have the same question, is why we would be involved in this annual emerging constituents characterization program; although it's not large cost, we can't see any real benefit to Watermaster for participation it this. And it is duplicative of what we do in Chino Basin Watermaster and so we are going to be asking some hard questions of the Watershed Project Authority as to why we should be involved in this. I'm guessing that probably Rich has this on his radar screen as well. And I don't know what their cost is on this but it's not a large amount but it is something that is not necessarily going to provide us anything. If we do decide to do it, my guess is it's only because we are part of this project authority partnership that has been involved with these kinds of activities but I've got some serious questions to whether or not this is going to be any value to us. So we have it on here in case you have any questions; it is really for your review but it will be back to you in May for approval. We have sent it over also to Michael for him to look over for content and he has been a little busy with other things right now so we have not had a chance really to look at it in complete form but we do want to put it on the table so that people can take a look at it and be ready in May to discuss it.

Bob Feenstra: Any question? Move on.

Jeff Pierson: The approached us on this?

Ken Manning: Yea well the monitoring program is something we have been participating in and so we anticipated this was coming. The emerging but the emerging contaminant is something has actually been postponed and postponed and postponed and postponed and finally it is here and now we are asking the questions as to why we should be involved in this or be paying for it. It's really to the benefit of other parties along the Santa Ana River not to us.

Jeff Pierson: Right.

Ken Manning: So we're wondering why we... I mean we do enough socialization within the Chino Basin, why should we provide that to the rest of the...

Jeff Pierson: Until we start drawing that water into the Chino Basin...

Ken Manning: Yea but its deriving information we already know so it's again... We're going to ask some questions. I'm not saying at this point we are not going to participate or recommend participation; we've just got some questions we have not had an opportunity to present yet to the Celeste and her group.

Gene Koopman: The main player should be Orange County shouldn't it?

Ken Manning: Ugh, Orange County is a big player in it as is Riverside and San Bernardino.

Gene Koopman: Their biggest recipient of a...

Ken Manning: Yes.

Gene Koopman: The benefits of the water.

Ken Manning: Well, Orange County is and this is the one thing I'm not sure is, is there's no doubt as you say, Orange County is the biggest beneficiary; I'm just not sure what... I think their cost is not commensurate with their benefit. So we are going to ask those questions and try and found out what those things are before we get to it in May. But we wanted to put it on the agenda and let people know we are looking at it.

Bob Feenstra: Okay Ken.

Ken Manning: Okay reports and updates – general legal counsel.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Paragraph 31 Motion Update
2. Database and Record Management

Michael Fife: Alright two items to report on. The first one is the Paragraph 31 Motion that's been filed by the Non-Agricultural Pool. We did have a hearing on Friday to discuss procedural matters with the judge. The judge continued the hearing; that was his own idea, nobody had asked him to change the day of the hearing but he felt that the scheduled date of April 16th was a little bit too quick so he has put the hearing that Paragraph 31 Motion out to May 14th. That is a Friday and that's going to occur at 10:30. He also – we covered a number of procedural matters in particular the schedule for the briefing. The schedule we came up with was that Watermaster is going to file its response brief to the Paragraph 31 Motion this Monday on the 12th, then the Appropriative Pool and any individual members of the Appropriative Pool who want to respond to Watermaster and the Non-Agricultural Pool will file by the next week, that's Monday, April 19th, then the Agricultural Pool or any individual members of the Pool who want to respond to the three briefs that or the filings that have been made so far, they will file the following week, so that will be Monday, April 26th, then the Non-Agricultural Pool and any individual members of the Pool will have an opportunity to respond to all of that on May 10th and then the hearing will be on May 14th. So there is a staggered briefing schedule that let's everybody in sort of successive waves reply to everyone that's come before them. There will be no page limits on any of the briefs so the court was clear that it wanted to allow everybody to say whatever they wanted to say in their briefs no matter how much space that took up. There will also be no discovery prior to the May 14th hearing. The court was clear that it will decide, at the May 14th hearing, whether additional discovery is necessary and if it makes that decision then we'll move on in the process from there. I think that's it for the procedural matters so Watermaster does plan to file on Monday and I am happy to answer any questions about that before I move on to the other item if there are any.

Bob Feenstra: Any questions of Michael's report?

Michael Fife: The other item is being termed database and record management. This is sort of an outgrowth of the process that has been going on to develop the policy manual that you have all heard about. The policy manual is an attempt to through all of the Rules and Regulations, the Judgment, our Watermaster resolutions, etc. and put them all into one place so that everybody has a single place to go to, to understand the rules of Watermaster. In a similar vein as we've been dealing with the Non-Agricultural Pool issues, we've been looking more closely at our service lists, the way we provide service, who is on those lists, who's not on those lists, and one of the things we have discovered is that over the years, really since 1978, there've been certain formalities that have been practiced and that have worked perfectly fine, but have resulted in some times confusions on behalf of new people who come in and don't know how the system works. One of the biggest examples of that of particular relevance to this Pool is that since 1978 a lot of people who were members of the Agricultural Pool have sold their property and new people have come in, bought that property and taken up farming. We keep track of all that so that in Watermaster's database we know who everybody is who's pumping, how much their pumping, etc. but those new people who came were never made parties to the Judgment nor were the people ever dismissed from the Judgment. So right now in the Agricultural Pool unparticular we have a very large number of people who again we know about, we track, we monitor their pumping but they are technically parties to the Judgment. It's never been a problem and it's really not a problem in a practical sense, but it's not, you know all the i's aren't being dotted and the t's being crossed, really everybody who pumps needs to be a part to the Judgment. So this kind of thing we've discovered over the last couple months and we'd like to begin a process just as we are doing with the policy manual of really going through and reviewing all

the records, all the databases, and make sure that everything is procedural perfect. So we are just letting everybody know that we're beginning this process and it's probably something that's going to take a number of months to accomplish because of course once we get into it we'll discover other things and we will be dealing with them.

Bob Feenstra: Ken, quick question on that. He uses the word we on that database and looking at who's pumping and whose not pumping, is that a staff function or staff and legal function?

Ken Manning: It's really a staff function in terms of keeping track of it and up until about four years ago Watermaster has had a great deal... and part of this and this is getting a little more detailed, but Watermaster has had a very difficult time on one end keeping track of those people who are pumping to some degree because the county issues the permits to dig wells and up until four years ago when I wrote a letter to the county saying this is totally unacceptable and asked them to build us into the pre-permit issuing process, which they denied by the way, we have not been receiving any information about who's been putting in wells. It's only been our discovery by going out into the field, seeing somebody digging a well or pumping a well that we didn't know about that we then eventually add then into the database. Now today the county at least tells us when they've issued a permit so we can go out to the person and say listen, you don't have any water rights... and you've seen some of those as we've been getting those, those people added to the Judgment. But what we didn't know was to the extent that prior to me being on board and staff and most of my staff being on board, for the last ten or twelve years before that the number of people that were added into the database were not actually excepted into the Judgment. And so now we are starting to find that out; there were literally dozens of people who have been added to. And then the other part which is somewhat frustrating both from their part and from our part, is there is a number of people were are on that list that we still send out notice to via email now but we send out notice to who are no longer pumping or they no longer reside here. They get our notices but their saying, listen we don't pump here anymore and we sold that land long ago, but they're still on the list because nobody has ever purged that list.

Bob Feenstra: I have a suggestion between Milk Producers Council and the cities of Ontario and Chino, it shouldn't be difficult to find out who own what land and so on and so forth. In as far as agricultural pumping is concerned I'm not aware of any pumping within our jurisdiction or in the Ag Pool basin that's not using it for farming so can you share that with me. That means let's take a Chad Cleveland or a Glen Durrington or a Sam, there using wells, what about it?

Ken Manning: We keep track of all that and I think Michael said it well, we keep track of everybody who pumps; we know I think with pretty good certainty everybody who is pumping water for Agricultural use and we keep track either or in most cases we're using meters. And so we have a pretty good feel for who is out there and who is pumping water. What Michael is saying there are people who that who are in that we keep track of, who've actually never intervened formally into the Judgment. We keep track of them, we treat them like they are a part of the Judgment, but if you were to go back in the record you will never see a formal acceptance of them into the Judgment, but we treat them just as if they are in the Judgment today. There's no distinction between how we treat them between anybody else who has intervened. Once they are on the database they are treated as if their part of the Judgment. Formally we have never ever gone through that and that process goes back five, six, literally dozens of years. So we need to go back and find out who those people are, get them intervened in if they are still pumping, and those that are on the list who are no longer pumping, ask them if they want to be, it's their choice as to whether they want to stay in the process or not, and ask them and if they do want out, most of them will, then we will present a list to the court of people who need to be purged from our Agricultural list. Before we do that it will come to the Agricultural Pool for you to review before that ever occurs. So I don't want...

Bob Feenstra: Yea that was my question.

Ken Manning: Yea this is not something Watermaster's is going to do unilaterally; this is going to be in partnership with the Pools. And we have the same situation to a lesser degree with the Overlying Non-Ag. There are some people again on that list who no longer pump; they have rights... they are

on the list as Overlying Non-Ag Pool members but they have no water rights and they pump no water. My sense is some of those people would like to be relieved of the responsibility of having to receive those emails that we send out every month about meetings. Because they really don't show up to meetings, they don't pay anything, they don't... there're no reason for them to be on there. So our interest is getting those lists all current and so that's where we are heading.

Bob Feenstra: This is a staff assignment.

Ken Manning: Staff is the one who discovered it and staff is the one who's been frustrated by it and it was brought up as a matter of fact at the hearing with the Judge that the Overlying Non-Ag Pool has shared in this frustration in their ability to try and find out who these different parties are. I share in their pain because we go through that. In the meantime we have solved it by just treating everybody as if they have intervened; that's the only way we can deal with it.

Jennifer Novak: Yes, if I could add on. I interpret what Mr. Manning has said a little bit differently in response to your question as to whether it's staff or a mix of staff and legal because if these people are going to have to be put into the Judgment then obviously some sort of procedure has to go forward to get them in front of the Judge and to get that approval. In addition, and you just added it, the court is now aware that there are some issues with not only the service lists but also there may be an issue as to whether there has ever been a formal court order allowing service to be done in a very expedient and you know practical manner of email or whether everyone is supposed to be mailed everything. And without that court order the Judge is going to have to consider the issue and then finally issue one and obviously this comes after he deals with the Paragraph 31 Motion, but there are a number of issues the court is aware of, you know we are going to have go in front of him and get it worked out.

Ken Manning: Yea all we have, and Jennifer is correct, at this point in time in terms of the court order that the Judge has presented that says, in a court order, that says you must do things this way; there has never been, that we can find, any order that has transmitted that; although the court did approve the Rules and Regulations which do specify our notices that are filed electronically and that we act in the way we are currently acting. Not only that in comments made by Judge Gunn over a series of transactions that we had in front of him, he made it very clear that his direction was that Watermaster act in an aspirate way of filing that puts the onus on those that receive the information to require it in something other than what we send it to them. So if we send them a notice via email and if they wanted hard copy it's up to them. You know... Glen's a good example; Glen says I don't get electronic stuff I want a hard copy. So he has notified Watermaster of that; we send him a hard copy not a problem we can do that but the onus was on Glen to tell us that, which he did. And that's the process that the court has said to us so far, but that is not part of a court order that the court has actually issued to us; it's only been comments and approval of Rules and Regulations. I don't know if Michael wants to add anything to that but that's my interpretation.

Michael Fife: Yea I think Ken umm characterized it correctly and really it's a good example I think of a lot of what we're doing with the database and with the policy manual. The practice of email service was instituted over a period of years and it really began in 1998 under Judge Gunn and if you go back and you look at the record you see a clear umm development of the practice, you see clear instances in the transcripts Judge Gunn is directing Watermaster – go to email service; I want to see you doing this within a few months. Things like that. He actually...there was a hearing in 2002 where he chastised anybody who was in the courtroom who had elected to receive paper service and he called them out. He called out Jean Cihigoyenette and said I see here you're getting paper service why? Explain to this to me Mr. Cihigoyenette, you know so there was a clear process but there's no single order from the court that says here's how you do it. So that when somebody new comes into the basin and says, how do you do service of process, we can pull out one order and hand it to them and say this is it and then they see it clearly.

Jeff Pierson: So then now what we are saying is we will go through a process of other parties that aren't formally intervened into the basin; we will have to approve that list and then we will also have to

approve the list of people that no longer want to be part of the Judgment. It will be a formal Pool process of acceptance and purge.

Michael Fife: Correct.

Ken Manning: Correct.

Steven Lee: So that something, so that I understand it, that will go through the Pools and then after the parties have done a formal notice of intent to intervene, are we going to combine that into one motion that is presented to the judge. Or are you going to go piece mail?

Michael Fife: Yea and we put this on the agenda as a report. This is something that we've encountered over the last 30 days; we wanted to make sure everybody knows clearly what we're doing that all of this is done very transparently with lots of involvement from everybody. So we have no idea how we are going to go about doing this. We are just putting it out there that we need to do this and we are going to start doing it and we want your input, we want your participation because we need to get it done at some point.

Ken Manning: Understand that we don't want to try and introduce the beginning of the process right now because of the current controversy going on; it would be construed as manipulative in some way, although, it's not but we are just going to say look we're going to hold that off until after this is resolved. Then understand what we need to do. And I do think the Judge had some interest in taking part of this discussion about how we do this in his hearing the other day so.

Bob Feenstra: I have a quick comment to Michael's remarks and then I'd like to ask another question. Michael it really doesn't matter to us whether a judge chastises somebody or tells us how to operate in our reporting method, if somebody wants to receive a hard copy or a paper copy, they're entitled to it.

Ken Manning: Yes.

Bob Feenstra: Maybe some old person like me that wants to have an actual paper in its hand rather than go to a computer which maybe like Rob Vanden Heuvel doesn't even own one. So it's these...

Ken Manning: Rob doesn't have a computer?

Bob Feenstra: These legal beagles who make statements, it's in my opinion – a personal preference, I'm not going to argue this. It's a personal preference and I really don't give a rip; people are entitled to receive it the way they want to receive it. To the next question. Do you have a computer Jeff?

Jeff Pierson: About six or seven of them.

Group: Laughing.

Bob Feenstra: Ah Ken, on the data and record keeping who's entitled to that information as we make those changes? Who's entitled other than those we know of? Can anybody...

Ken Manning: Anybody can come in and see it; it's all public record and it's all information that you can easily obtain online. Most of its online as far as I know and so you can go online or if you want to come into the office that's not a problem either. And back to your original comment about the paper; we have a number of people we sent paper copies to who have requested it, who have said listen we don't have a computer and we also on every month send out agendas to the board members and the pool chairman; hard copies of every agenda so they automatically get a hard copy so that they can deal with it... writing on the agenda for their administration of the meetings.

Bob Feenstra: That just started again and I really appreciate Sherri Lynne. Okay any... Jeff?

Jeff Pierson: Oh no Glen beauty before age.

Bob Feenstra: Let's now fight over this.

Glen Durrington: Ugh, when the land owner sells its Ag property to developers he no longer can pump water for his development?

Ken Manning: There's a it... there's a number of things that takes... Just the fact that the developer buys the property does not trigger a transfer. In Watermaster we have changed the way we deal with this because we have found a number of pieces of property that were bought by the developers that were just being maintained by the developers as agricultural property until they decided they wanted to develop them. In those particular cases going back before my time, those properties were transferred over and then they were also in some cases getting transfers and the Ag Pool pumping; there was a duplication going on. We have resolved all of those but now in order to trigger the transfer process, it actually takes some action by the developer. Um and then the city will get credit and that could take a grading permit, actual movement of a transfer of the property to take it out of agriculture, demolition of buildings, those are the kinds of things Watermaster's looking for; demonstrating that it no longer is going to be use before agriculture before a voluntary transfer takes place.

Glen Durrington: Okay, then that leads to my ultimate question because there are properties that the building has been demolished like you know bombs of Bagdad hit them. And then the development stops so now you have someone coming in and farms it, is he entitled to pump water out of that place?

Ken Manning: Absolutely he is and in those particular cases we work with the city. If the transfer has already taken place with the city, we then have a dialog, in some cases, as to whether or not it's appropriate for us to go back and undo what has been done or if it's a temporary kind of a thing for a year we'll just let it ride for a year and take a look at it a year after. We've run into because of the economy and the changes, we have run into that a couple of times in the last year.

Glen Durrington: I was thinking Sunkist, although, they use recycled water. That waters to Ontario.

Ken Manning: Right now.

Glen Durrington: Yea and they can't pump that water?

Ken Manning: Agricultural has water rights that if anybody puts in a farm or a dairy they can pump water up and use it for their agricultural purposes as an overlying right; it's universal and they have no problem doing it so... there's no restrictions.

Jeff Pierson: Isn't that conditioned as long as title of the water right has been transferred to the buyer? And you can retain your water rights.

Ken Manning: I'm not sure I understand what you are...

Gene Koopman: You mean as an Ag Pool?

Jeff Pierson: No no as a property owner.

Gene Koopman: We don't own water.

Ken Manning: It's an overlying right so it transfers with the property but in many cases the property will be owned by a developer but being farmed by an individual who leases that property. The person who leases that property can operate the well and use it for those farming operations.

Jeff Pierson: Okay so it is not like mineral rights.

Ken Manning: No.

Jeff Pierson: So the water rights are... I mean this is almost rhetorical; I'm just making sure I understand it.

Group: All taking at the same time.

Jeff Pierson: Yea does it show up on your title that you have no water rights?

Bob Feenstra: Good question of staff after the meeting.

Ken Manning: I'm not sure how it shows up on title to be honest with you. I've never looked at the title...

Jeff Pierson: That's... I don't think on any of title I've looked at says that I've given up my water rights to the Agricultural Pool of Chino Basin.

Steven Lee: It never references the Judgment or anything.

Group: All taking at the same time.

Jeff Pierson: It's just a question.

Bob Feenstra: Okay let's move on. You got it Jeff?

Ken Manning: If you have any questions ...

Group: All taking at the same time.

Jeff Pierson: No but I can't remember now.

Ken Manning: We have a number of parties who are in that category where the land is not owned by those who actually pump water up and use it for beneficial use in agricultural. And then we also have a number of agricultural users who use water from a potable source or a recycled source around the basin.

Jeff Pierson: Well, you know, in years past the user had intervened not necessarily the land owner who had the overlying right.

Ken Manning: Right, right.

Jeff Pierson: I know that was the case of a number of properties.

Ken Manning: Yea it adds to our confusion.

Jeff Pierson: Yep.

Gene Koopman: A good question in this not only the agenda but the civil suit Regional Board on a...

Ken Manning: I'm going to give a...

Bob Feenstra: That's on the report; it is on the agenda.

Ken Manning: It's under the CEO report.

Gene Koopman: Okay.

Gene Koopman: Let's move on if there are no more questions let's go to staff reports.

Ken Manning: First thing, first of all not on the agenda I'd like to introduce Joe Joswiak who is our new CFO at Chino Basin Watermaster. Joe comes to us from Fleetwood Industries and then for the last five years and then prior to that he was with the 91 freeway toll road...

Bob Feenstra: So you're the problem.

Jeff Pierson: So we're going to have to get his computer reformatted.

Ken Manning: Yea. So Joe comes to us with a variety of experiences that include some public and some private; he has his masters of business administration from Redlands University and we are glad to have him on at Watermaster. He came to work starting Monday and he's as well as you can imagine up to his eyeballs in paperwork trying to figure where things are and getting up to speed and he is doing a good job so we are glad to have him on board. If you are ever in the area at Watermaster and want to come in, sit down and talk with Joe, he's a very personable and likable guy so.

Jeff Pierson: Welcome.

Bob Feenstra: You just need to know this is not an easy group.

Joe Joswiak: Not a problem.

Bob Feenstra: Okay good.

C. CEO/STAFF REPORT

1. Legislative Update
2. Recharge Update
3. Regional Board Complaint
4. San Sevaine 5 Berm Improvements

Ken Manning: Legislative update; just a couple of things I wanted to make note. As you can imagine there are a number of things going on in Sacramento right now. Pieces of legislation are being introduced and hearings are starting to take place on a variety of things. We are trying to get a feel for what's going on. But the LAO's office did release this document. This is the LAO's improving management of state groundwater resources. This is really the second document that the LAO's office has released. You might remember the first one a couple of years ago from groundwater management perspective was I think somewhat inflammatory; this one is much more toned down and realistic. As a matter of fact it makes statements in there that acknowledge the fact that management at the local level is preferable which is a major departure from their previous report. It does have some statements in here that we still want to talk about and they've given direction to the legislature about things they might want to consider and so we are starting to see some of these things show up in legislation. One of those pieces of legislation is AB2304; I've been working with assembly member Gerard Huffman on this particular bill as chairman of the California Groundwater Coalition, we have decided to co-sponsor this bill and have provided them with at least the first round of changes that we think needed to be in there. They included those changes and it's actually going to be heard in committee next Tuesday. Essentially what it does is it talks about the coordination between land use agencies and basin management of agencies in terms of mapping and

understanding recharge areas. Something that those of us who manage groundwater basins think is kind of a no brainer, you'd be surprised how many people throughout the State of California, there are 515 aquifers statewide, how many of those 515 do not monitor nor do they understand their recharge areas. So this is a step to try and get them to try and get them to start having dialogs about where is the recharge taking place within their basins and how do you protect that long term so you don't pave over paradise and create the situation that many of the LA basin areas have in trying to do this in reverse. So, that's the piece of legislation that were looking at; take a look at 2304 if you have any questions or concerns about it either contact the assemblymen's office or contact me and I will be glad to transmit those comments to them. But the Groundwater Resources Association and the California Groundwater Coalition are the two primary sponsors of this piece of legislation.

Ken Manning: Recharge update on the back... we just got yesterday the new recharge numbers for the month of March which are very good. As you might remember we got some rain during the month of March; 571 acre-feet of storm water recharge and 612 acre-foot of recycled recharge were entered into the basin. Thank you to IEUA for their all of their work in putting that together and we really appreciate that. I'm going to talk in a couple seconds about San Sevaine five berm improvements and show you some pictures because I think it's a very impressive... what was able to be accomplished in a very short period of time from just a few weeks ago in terms of after the rains were over or in between the rains, we were able to get in and fix San Sevaine five.

Ken Manning: I do want to talk about the Regional Board complaint. I'm really not prepared at this point to go into detail because there is still a lot of information that needs to be derived before I can do that. We did receive last week... we have been hearing about it for a period of time. As you might recall, IEUA and Watermaster are the two co-permittees on the permit that allows for recycled water to be entered into the basin via Max Benefit. We had provided the Regional Board a few years ago a schedule of what we thought was going to be a reasonable schedule for the development of the wells that obtain hydraulic control. Meaning the water that is slipping by, essentially right under our feet here today, on the south west part of the basin; Wildermuth had discovered that there was some underflow that was actually occurring making its way into Prado Dam. The Regional Board requirements are that we actually have complete hydraulic control which would be obtained with 40,000 acre-feet of annual pumping by the Chino Desalter Authority. We are the permit holders; the CDA is the implementing agency. There is a slight disconnect there that the Regional Board recognizes and in their email message to both Rich and myself, made it very clear that the Regional Board understands that our staff and our efforts are not the problem here. But we are the only remedy for his frustration. So he has issued two, both of us, we just received it a copy of a complaint which has a penalty of about \$227,000.00. Now Rich and I have a meeting coming early next week and then we have a meeting with Jerry to get a better understanding of what it is he is looking for and how we might deal with this issue coming up on April 19th. So after that meeting, next month's meeting in May I will be able to give you a better update and feel for what is going on and what the expectations are and Rich and I really need to talk about how this is going to be developed between the two of us and what our reaction and our response is going to be; or even how we are going to respond to the Regional Board. We have not even had a chance to discuss that yet. So still kind of things are evolving but we did receive the complaint; we understood it was coming and you might even remember I commented a couple months ago that I expected that we were going to get some sort of a fine from the Regional Board. So that's where we are. And then any questions on that?

Bob Feenstra: Yea.

Ken Manning: I'm going to move up to the podium where I have to be to do the presentation. Go ahead.

Bob Feenstra: The question is, I'm almost wondering if we have been kept in the dark on this and certainly has is not your fault at this point if we were to put blame. But for many of us not to know who are the responsible parties to respond to the requirements of the Regional Water Quality Control Board so I'm going to lay it on the table this morning to my board and if you want to respond, great you don't have to.

Gene Koopman: Well let me explain something here. Going back Bob you know the CDA basic problem they have is that you have no potable water so there... we all knew what had to be done. Watermaster and the Inland Empire Utilities literally was beyond their control; we didn't have the control and but now with Western coming in and then there's been the problem... It's my understanding is that from peoples perspective is that he wants to some dirt move – period.

Ken Manning: Yes.

Gene Koopman: And that's very simple and there's no misunderstanding. The question I have for Ken is and he may or may not have the answer; when's the CDA going to start to move some dirt?

Jeff Pierson: Yea how soon?

Ken Manning: Let me answer it this way and the answer is they are capable of moving that dirt today.

Bob Feenstra: A year ago.

Ken Manning: I'm not sure a year ago but...

Bob Feenstra: Okay six months ago.

Ken Manning: Six months ago, yes. The problem is more administrative within the CDA in terms of people wanting to have all of the t's crossed and all of the i's dotted before anybody actually. And remember this is a partnership and so our frustration and I have had numerous conversations with attorneys and with parties about the frustration that I share with Jerry on the fact that we have not been able to move this project forward. Rich has had similar with the same parties; this has been a constant frustration for both agencies trying to get parties to move this process forward. Our position is move the process and if there are details that need to be worked out, you've got plenty of time guys. This is not an issue, you are all on the same room together, this is a partnership you go to have some trust in each other that you are going to work together. They already have the principals of the agreement agreed to so this should not be holding us up in terms of digging the wells. And there are two wells that Jerry is interested in seeing started that could be started immediately. Both of those are on properties owned by parties to the CDA already. So they don't have to go out and acquire property, they don't have to go out do anything environmental in terms of a new environmental impact reports, this stuff could be done immediately. In terms of the issue of, has everybody been made aware of what's been going on within the process, Watermaster on a regular basis over the last two, two in a half years has provided reports to the Pools, the Advisory Committee, and the Board as to progress with working with the Regional Board and I have had on my CEO report probably at least six times over the eighteen months, reports on activities that are related to the CDA and these activities. And we try and keep people involved in it but at the same time we're not trying to throw fuel on the fire. It's not my style nor is as I think would be beneficial for Watermaster to be blasting people from the podium or from my position. I'm trying to work with them behind the scenes. I have offered up, as a matter of fact this is a second time, that I have authorized Scott Slater to work with attorneys on both sides to try and coordinate and get this process completed. So Mr. Slater is engaged in these discussions to try and focus their attention on those things that need to be...

Meeting tape cut off end of Mr. Manning's comments.

Bob Feenstra: My remarks saying I'm not pointing the finger at you Ken but as Paul Harvey would say, let me tell the rest of the story and you want to intercede because I'll yield to you?

Jeff Pierson: I just have a quick question. The permit holders are subject to fines.

Ken Manning: Correct.

Jeff Pierson: Is there a reason there was no teeth given to the permit holders to the implementers of the process.

Ken Manning: At the time the permit was issued the implementers of the process were vaguely known. You might remember in the development of the CDA or the desalters, that SAWPA was the initial agency then the Desalter Authority, as joint powers, was then established and during that process is when the permit was issued and so I think that probably this gap in authority developed because of that. Now I'm not 100% sure, I wasn't around during that period of time but I think that is the genesis of that divide that we are talking about there in terms of having the information.

Jeff Pierson: Are there any formal agreements between the permit holders and the implementers?

Ken Manning: Between Watermaster and the permit holder there is no formal agreements that I am aware of that bind us to or give us authority other than the fact that they all parties to the Watermaster Judgment and therefore Jerry knows that if we, if he fines Watermaster, that we pass it on universally amongst the party holders and we have it within our power amongst the parties to decide how that's divvied out. Rich and IEUA are non voting members of the CDA and they have a very minor link to the CDA process; although they have no vote, but they do handle the financial affairs of the CDA through the IEUA under contract. And so there is some slight connection there but it's not nearly the kind of connection that provides a majority or an override of any kind or veto or demanding of any kind.

Jeff Pierson: So the permit holders have no decisive control.

Ken Manning: None and Jerry recognizes that and actually put than it...

Group: All talking at the same time.

Ken Manning: And Jerry noted that in his email to both Rich and I that this is not something that he thinks Watermaster or IEUA have been delinquent on but we are his only remedy.

Bob Feenstra: I don't argue that point Jeff, the point that I argue is that that were not blasting them from the podium. But let's point out who the problem is and the problem is Chino Hills as I understand it. And the City of Chino and it's a very very serious problem and I don't know how he can deal with it. I don't even know how Scott Slater can deal with it. Either there going to work through this problem... I'm going to talk to Rich about it also but I've talked to the Regional Water Quality Control Board and it's a serious issue. And just because you and Rich are going to talk to Jerry, and think it's going to go away, it isn't.

Ken Manning: No it's not going to go away – yea it's not going to go away.

Bob Feenstra: Ken...we will get to you in a minute. I promise. Jennifer?

Jennifer Novak: So responding to what Jeff Pierson has said and also Ken, Mr. Manning, you said something a second ago. If for example the Regional Board decides to impose the fines upon IEUA and Watermaster as permit holders; Watermaster has the authority and the discretion to be able to impose those fines, essentially turn them over, to any party who's a member that CDA that you desire? Is that what I heard?

Ken Manning: Yes the parties themselves understand, it's a consensus based organization, we work with the parties and so this discussion will have to be amongst the parties how the distribute it. Watermaster itself does not accept any fines; we really just pass them on. It's absorbed by the parties through assessments. So somehow another that fee will be absorbed by the parties; it's based upon how they decide to divvy that up.

Jennifer Novak: So, so in other words it's not that Watermaster just then says, we think city X or participants X is the problem, you will be assessed for that whole amount, it's something that comes to all of us through the process with a recommendation from staff that this is how we feel it should be assessed as part of the normal assessment process.

Ken Manning: Correct.

Jennifer Novak: Alright so all the parties then will be able to hear one side or the other explain why it should be done that way and certainly anybody who feels they are unjustly accused can speak up at that point in time.

Ken Manning: Correct.

Jennifer Novak: And should be spread out amongst everybody who would receive the benefit, etc.

Ken Manning: And as much as we all like to point, you know it's convenient sometimes, to point fingers at people, this is a process that needs to take place and I understand peoples interest in making sure that all of their interests are protected. My position with them has always been, you are a partnership, you signed on to trust each other – trust each other and move forward and get this thing done and then talk about the terms later. Ken who is from the Ontario representative, he is probably got some... his views may be even different from mine on it.

Ken Jeske: A...

Bob Feenstra: You can hold that for a minute.

Jennifer Novak: Actually, I do have one other comment though.

Bob Feenstra: Please, please go.

Jennifer Novak: Can I agree with you that we've been hearing updates on this even in the formation of the CDA right you were having problems.

Ken Manning: Umm hmm.

Jennifer Novak: But last month not only were we not apprised that this might be coming with Jerry Thibeault sitting in the audience but when I raised it essentially we were told at that point was that it was rumor and innuendo was the term I used and that was what you confirmed.

Ken Manning: Yes.

Jennifer Novak: I appreciate the fact that you don't want to get people overly alarmed um but when we have a situation where potentially members of the Watermaster family may not be acting collaboratively when they kind of agree to do so and treat each other in good faith as part of something that is pretty significant not only to them but to everybody. I think we all need to know that something going on and similarly the fact that there is this Regional Board complaint floating around out there.

Ken Manning: Umm hmm.

Jennifer Novak: I didn't realize until this morning that it was not part of our agenda package. Um because I already had a copy but I didn't get it through Watermaster.

Ken Manning: Right.

Jennifer Novak: Um so you know I think it's so rare that something like this comes to Watermaster. I don't have a basis to judge whether or not we would normally receive something like that but I think that this is significant enough you know when the fines are \$200, 000 and potentially accruing now for continued violations. When Watermaster is currently scheduled for a, I guess, a hearing in front of the Regional Board or to the tune of writing a \$200,000 check and...

Ken Manning: The hearing is 90 days out.

Jennifer Novak: Okay um when we have those kinds of things going on, I appreciate the fact that you don't really know the end result, that you are still kind feeling it out let alone you know negotiating with the Regional Board. I mean I think that we need more information.

Ken Manning: Well, I think at the last meeting you alluded to the fact that we had some kind of a minor discussion about this because we knew very little about it. During the evolution of this, Watermaster had heard a variety of different stories, three different scenarios of how this was going to come down. One, it was not going to come down at all. Two, IEUA was going to be fined solely and Watermaster was not because they was a question as to whether or not they could fine Watermaster and two, Watermaster was going to be fined solely because IEUA didn't think it was appropriate party to be fined.

Jennifer Novak: But if you go... at the Appropriative Pool meeting you thought it significant enough to make that announcement. That the, there was a problem with the Regional Board and there was a change that some sort of enforcement type action was going to come out of the Regional Board which would affect Watermaster.

Ken Manning: The discussion you are talking about was a discussion that was an outgrowth of the fact that the Regional Board was withholding our approval, which is an entirely different subject, but it has the same net affect in that is that the Regional Board was going to deny our request to allow for the elimination of about \$200,000 to \$250,000 worth of monitoring on the Santa Ana River that we had made an application in the new Basin Plan for. They had already informed us that and this is the reason why the hesitancy, they told us they weren't, at this point in time, our word was that they were sure whether or not that was going to suffice as penalty enough to Watermaster to meet the frustration of the Regional Board and whether they were going to do anything or not with IEUA. For me to have said that this was coming down last month even with Jerry in the room, would have been premature because at that point in time we did not know and I did make the same comment here at the Ag Pool that I made at the Appropriative Pool and that was that this is going to have a net affect on Watermaster of about \$200,000 in our next budget that we don't think nor does the Regional Board think needs to be done. As this point in time they agree that monitoring is really unnecessary but they're not going to approve it because they are not happy about the whole issue of the hydraulic control schedule not being completed. So that was the context of the discussion that was had at the Appropriative Pool not on the fine on itself. The same discussions I've had with the Appropriative Pool and are the same discussions with the Ag Pool as it relates to the fine itself. We knew nothing about what this fine would look like until last Thursday when I received it in an email.

Jennifer Novak: I appreciate that Ken. Whether or not it came out at a different context the fact is, I raised it because I thought it was significant and it was significantly down played before us last month and maybe I am the only one who feels that way but you know it wasn't necessarily a surprise but it didn't seem to match up with what we were told and I received a copy of the ACLC.

Ken Manning: I'm not sure what means, and I don't want to get into a debate with you, understand I appreciate your position. I'm not sure what the words down play means. When I say there's a potential of a fine, I don't think that's down playing it, I think that's making an announcement. The fact that I don't the magnitude as it says within the paperwork that fine could have been over a million dollars. It was \$200,000 and actually the fine was \$200,000 plus staff costs which raised it to \$227,000 roughly.

Gene Koopman: Which is still subject to negotiation...

Ken Manning: Which is still subject to negotiation so I'm not...

Jennifer Novak: I appreciate that.

Ken Manning: So again and in stating it that way, I'm not down playing it, the fact that I received the complaint is significant but last month we had not received the complaint; we did not even know if we were going to receive a complaint and the only issue at hand a month ago was the fact that they were delaying if not turning down our request for a Basin Plan Amendment that could have saved the parties in this basin \$200 to \$250,000

Jennifer Novak: And we almost got none of that information. And so seeing Regional Board complaint on the agenda this month would have been the first indication that anything like this was truly coming. So again I am not laying blame on Watermaster for being in a position nor do I think that this is the end of the day we should all be really concerned because we are going to get hit with \$200,000 fine. Again my concern goes back to what I was saying at the last meeting, perhaps the meeting before, which is I appreciate the fact that sitting in three different Pool meetings as well as Advisory as well the Board meeting, we have a tendency to think the same information is being given to everybody but it's not. So hopefully on a going forward basis we are eliminating...

Ken Manning: Well, let me make a statement, if I did not give the impression in the past that I thought this was a significant issue, I apologize. I think this is a significant issue and I put it on the CEO's report last week because I did receive it on Thursday, we had a chance to get in on the agenda. It was not an action item nor even a discussion item even though we have spent ten minutes on it. It was not in my mind a discussion item because we had not yet had an opportunity for Rich and I talk about it, let alone talk with Jerry. So to have a discussion amongst the Pool members about this issue would be premature. So I put it on what I thought was an appropriate location and that's under the CEO report that yes we did receive a complaint; it's now on our ftp site if people want to pull it up and take a look at it. So those who have requested it, I've sent...

Bob Feenstra: I appreciate your response; we will be going into a closed door session here in a minute so if you have questions or comment. I just have one before Gene steps in. Ken and that is there are times in our leadership positions that you have parental or you have sibling pressure and when people are not responding and it's my understanding in talking with the Regional Water Quality Control Board this has been at a high level for some time and we get the surprise that we are just now understanding the seriousness of it. Not blaming you, I'm just saying not knowing is not appreciated. Gene you got a comment.

Gene Koopman: I think you know what I mean the main point this did not happen until last Thursday. Going back to our previous Ag Pool meeting you know we talked about it and made the statement will if Inland Empire Utilities gets fined that we will find a way to recover that money. And after the meeting Jerry came up to me to talk with me and he said you know if we and big words "if" we said so they you know, he may have already made the decision to do it but he was not sharing or at least he did not share it with me.

Ken Manning: Same comment to me.

Gene Koopman: And if he did he... was because of the way we had the permit you know Inland Empire was going to be part of it but he was also going to make it very clear that it was beyond our control and really not any of our fault and I guess for the Watermaster also. You know Jerry's hasn't hammered yet, you know he can change the amount of water we can recycle water we can use for recharge.

Ken Manning: Well his biggest hammer is he could resend Max Benefit.

Gene Koopman: Yes, and I mean that is a lot bigger fine, the fine is peanuts compared to that issue.

Jennifer Novak: And I think that goes to the chairman's point which is that if this is a problem that is really at the feet of a few interested parties of the Watermaster family, then given the serious consequences of appealing Max Benefit to not only the basin and everybody it in because we need the recycled water to go forward. We need to become less dependent on potable water. Then it's in everybody's interest to figure out where the problem is.

Gene Koopman: The problem is, there again, we're insulated a little bit because of the adjudication and where we are allocated to all this water. But the Appropriators are not in that position and so they actually get the benefit of the recycled water going into the ground for replenishment. What I don't understand and Ken... two wells that are already on property that are owned by public agency that they know they can start digging today and that would have cured the problem you know and to me I mean those wells are going to have to be dug period. Today, tomorrow, next week, next year, and they are going way back to the Peace process. We knew that the desalters had to go to 40,000 acre-foot that was in there, it was very well understood by everybody and it had to be done.

Ken Manning: Yea.

Gene Koopman: But there was some problems in the process of selling the water and that's why Western come into it but and I think Jerry makes very good argument... move some dirt. We got two wells, it seems to me I don't know what it costs to dig a well, but you know get them things started.

Ken Manning: The funds are already there.

Gene Koopman: For the Appropriators because they are going to get their base beneficiary of recycled water.

Ken Manning: Absolutely.

Gene Koopman: Why aren't they putting pressure on the members of the CDA to at least go out there and start digging some dirt?

Ken Manning: Well I mean...

Bob Feenstra: Gene and I understand your frustration because you are wearing two hats today and we will discuss that in closed session okay. My point is, had we known about it... Mr. Hofer we are going to ask you that question. That's why I am going to call for the closed session now. Had we known about it the parental or sibling pressure; you know I've known Jerry Thibeault for two decades, you want to see the scars on my back, I mean Gene you were chairman of the Board. Okay, my point is...

Jeff Pierson: I had a ten million fine so you know...

Gene Koopman: Don't get me started.

Bob Feenstra: My point is you may not be the problem. IEUA may not be the problem but there's a problem and everybody knew about it. Meaning...

Jeff Pierson: There's an inherent conflict of interest between the CDA members and the membership in the Appropriative Pool that somehow in our process of moving I'm worried that if we try and get anything that isn't administratively fined to those members, it will not happen in the Advisory.

Ken Manning: It has to go through. Watermaster does not have a separate source of income that would pay that so it has to go through.

Bob Feenstra: Now Ken unless it's relevant I'm going to put it off until after... Okay-okay what would you like to say.

Ken Jeske: You know I had a little suggesting because I heard earlier about using Scott Slater and then I've heard some comments singling out like Chino and Chino Hills and I see Jim and one of the council members here. It's kind of a group problem. I think bringing in Scott Slater with this Pools authorization as well as the others as a mediator not as an attorney and having him request to put together a meeting with the principals and I'm not one of them, um of the City of Ontario, City of Chino, Western, without their attorneys and start with a term sheet and finish it. I think the problem could be solved fairly quickly. Finally the Peace II Agreement does not hold the CDA responsible, it holds Western. Western is the agency that agreed to do the expansion. Two other parties determined to join it to try and make it go better and quicker; it's a one hundred and fifty dollar investment so those parties want to make sure a back end agreement for the sale of the water to fund the \$150 million appropriately; that's good government. And the ultimate payer of all this whether it's the \$150 million capitol, whether it's the price of the water on an ongoing basis, or whether to pass through fines through IEUA or Watermaster all goes back to the same people – the rate payers and customers.

Bob Feenstra: And what's your point – what's your point Ken.

Ken Jeske: So what we'd like...

Bob Feenstra: We could have known this for a year; Scott could have intervened and talked with the parties for over a year.

Ken Jeske: And... and

Bob Feenstra: And here we sit,,

Ken Jeske: And any other party could have come in and done those two test wells. I'm saying that they couldn't have been done earlier; I'm saying they weren't because the primary parties didn't want to invest the capital until they knew they would be able to pay those bonds off. And the rest of the facilities cannot yet be built because CEQA is not yet completed. That's only complete on those two particular test wells. So it is... and I happen to be sitting next to Jerry at that last meeting and he told me the same thing he told everybody else. He wasn't sure what he was going to do yet but he knew something had to be done to spur it along. That's when Ken called and said how about if we offer using Scott Slater, he's got some skills as a mediator outside of his legal skills and we all recognize that. I want to encourage us all to use that and I want to encourage the fellow CDA parties to use that because essentially you have three parties that are burring this whole cost and other parties that are not.

Bob Feenstra: Thank you Ken. I talk to Jerry Thibeault myself this morning and he darn well what he was going to do and he knew what he was going out and the parties were supposed to know so all I want is clarity; that's all I want – that's all I want and if we can't it I want to find out why we can get it.

Jennifer Novak: Mr. Jeske raised a very good suggestion and I don't know whether he intended to or not...

Bob Feenstra: It's a great suggestion.

Jennifer Novak: And that is that the Pools authorize Scott Slater to mediate between the parties. This raises an issue that I have which is this whole public agency oh but we can have secret

settlement discussions and I'm not certain which one is better. But in this situation if the Pools know that this is going to be taking place I think then it allows even a public agency to participate in that manner. And I think it may a good suggestion that we should discuss if we are going to be discussing this in closed session.

Bob Feenstra: We're going to be going into executive session. Paul would you stay behind and we'll try to do this in ten minutes and call staff back in.

Ken Manning: Can we go through the San Sevaine... it's about two or three minute, mainly pictures, to show you what has occurred in a very quick time when the parties really got focused on what needed to be accomplished.

Bob Feenstra: Paul can you wait?

Ken Manning: This is a picture of February of '09 of what the San Sevaine berm in San Sevaine Five. You might recall San Sevaine Five is a very large, it's at the intersection of the 15 and 210 freeway, it's a very large basin and very instrumental for both Watermaster and IEUA in the future. It does hold a lot of water and there is a tremendous amount opportunity for recycled water to go into this basin. San Sevaine Five's berm was construed using just some loose fill and compacted into a berm. There were a period over a couple of storms finally gave way; we tried to reconstruct it, you see the yellow sand bags there, those were constructed all the way across the berm for a period of time and withheld some of the water to help us get perking into the basin but they gave way after a couple storms as well. So we had a very frustrating situation in that we had in the beginning of this storm season we had a berm that was not constructed properly and we were losing opportunities for recharge in the basin. Again here some pictures you can see... these are all February of '09. A tremendous amount of water potential; here's what it looked like before that section gave way. We were also getting water that was going around the outlet structure; not just through the pipe when we closed the pipe the outlet structure was leaking around the outer edges because of some of the rubble and stuff that was built into the berm and so we were detecting a lot of water going through even if the berm had been constructed properly. More pictures of the basin. This is what we look like today; in March between the storms in the end of February and the beginning of March a contractor was able to in there and raise the level of the berm by 4 feet and extended the base of the berm to accommodate that additional height; the spillway was re-poured and additional improvements s were made so that now we have what I classify a Class A improvement in the basin that is going to allow for additional water to be stored. It's constructed in way that we don't think that in normal rain conditions we're going to get that berm blowing out and we feel much better about its potential. Again here is another picture of it. This is really the last project in the CBFIP Phase II Projects done with IEUA and Watermaster and IEUA jumped on this quickly when they realized that we needed to get this completed. Watermaster had been urging it for a few months and IEUA because of the storms had to wait until they had enough time in-between them and you can see they have redone the outlet structures and you can see Jim Theirl from Watermaster at the top of the berm. You can see the size of it, this gives a little scale of it. And here we are with some of the water collected in the last storm so you can get an idea of what we are able to accomplish there. That's it and I think it's a good story because it shows the cooperation between IEUA and Watermaster and it is the final project of the CBFIP Phase II Project. That's it.

Bob Feenstra: Any questions of Ken? Hearing none we are going to go for 10 minutes.

Jennifer Novak: Ken Manning you mentioned that there might be some members of the Non-Ag Pool who are no longer pumping in the basin and I think at a prior meeting of Watermaster I've heard someone mention that GE may in fact may have not properly be a member of that pool but might be a member of the Appropriative Pool. So given that Ontario is now purchasing quite a bit of water right, I am wondering what is their respective position in that pool?

Ken Manning: In terms of percentage?

Jennifer Novak: Yea.

Ken Manning: Um I heard this morning that it was 31% after the purchase of Praxair.

Jennifer Novak: Okay thank you.

Recording Secretary: Are we going to wait outside.

Bob Feenstra: Yea we are going to go into closed door session at 11:32 and we'll try and get within in 10 minutes to go right back to the agenda.

IV. INFORMATION

1. Newspaper Articles

V. POOL MEMBER COMMENTS

VI. OTHER BUSINESS

The regular open meeting was convened to hold its confidential session at 11:25 a.m.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

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

The Agricultural Pool closed session was convened at 11:50 a.m.

Mr. Lee phoned in the actions taken at the closed session to the recording secretary as follows:

- 1) Authorize Scott Slater to ask as a mediator for the CDA/Regional Board issue
- 2) Request verbatim minutes be done for the three pool meetings
- 3) In approximately four weeks a special confidential session will be held; date to be determined
- 4) Paul Hofer and Geoffrey Vanden Heuvel will consult with Bob Feenstra, Agricultural Pool Chair, after the Watermaster Board meetings on what took place at that meeting

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

Moved to approve the authorization of Scott Slater as mediator in the CDA/Regional Board matter, to have verbatim minutes prepared for the three pool meetings, schedule a confidential session in four weeks, and Agricultural Board members will consult with the Agricultural Pool Chair on Watermaster business, as presented

VIII. FUTURE MEETINGS

Thursday, April 8, 2010	8:00 a.m.	Non-Agricultural Pool Mtg. @ CBWM/Conference Call
Thursday, April 8, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, April 8, 2010	1:00 p.m.	Appropriative Meeting @ CBWM
Thursday, April 15, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, April 15, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Wednesday, April 21, 2010	9:00 a.m.	* RMP Half Day Workshop @ Rancho Central Park
Thursday, April 22, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, May 6, 2010	1:00 p.m.	Appropriative Meeting @ CBWM
Thursday, May 6, 2010	2:30 p.m.	Non-Agricultural Pool Meeting @ CBWM
Thursday, May 13, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Wednesday May 19, 2010	9:00 a.m.	* RMP Half Day Workshop @ Rancho Central Park
Thursday, May 20, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, May 20, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, May 27, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

*** Recharge Master Plan (RMP) Workshop from 9:00 a.m. to Noon at Rancho Central Park
11200 Base Line Road, Rancho Cucamonga**

The Agricultural Pool meeting was dismissed by Chair Feenstra at 11:50 a.m.

Secretary: _____

Minutes Approved: May 13, 2010