

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING
August 12, 2010

The Agricultural Pool Meeting was held at the offices of the office of Inland Empire Utilities Agency, 6075 Kimball Avenue, Chino, CA, on August 12, 2010 at 9:00 a.m.

Agricultural Pool Members Present Who Signed In

Bob Feenstra, Chair	Dairy
Nathan deBoom	Dairy
John Huitsing	Dairy
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, CIM

Watermaster Board Members Present

Paul Hofer	Crops
Michael Camacho	Inland Empire Utilities Agency

Watermaster Staff Present

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

Watermaster Consultants Present

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

Others Present Who Signed In

Steven G. Lee	Reid & Hellyer
Dave Crosley	City of Chino
Craig Stewart	Geomatrix Consultants, Inc.

Chair Feenstra called the Agricultural Pool meeting to order at 9:11 a.m. *(Tape 1 counter 000-004)*

AGENDA - ADDITIONS/REORDER

There were no additions or reorders made to the agenda.

I. CONSENT CALENDAR *(Tape 1 counter 004-177)*

A. MINUTES

1. Minutes of the Agricultural Pool Meeting held July 8, 2010

Ms. Novak pulled item 1A for discussion. Ms. Novak noted her comments for the minutes are regarding the financial report summary and wants to clarify the minutes as they are presented with a few changes. Ms. Novak offered comment on Mr. Pierson's comments regarding the documentation backup that had not been provided to him regarding the financial reports that is not clearly reflected in the minutes and is only captured by a general statement. Ms. Novak stated the minutes should more accurately reflect that the CFO offered to have an open door for discussion and review of documents, except the documents requested by Mr. Pierson which

had been withheld on the advice of counsel. They should also reflect that staff advised the Agricultural Pool members that the form of the presentation of financials was going to change as soon as August and that counsel advised that Watermaster had been working on a policy response system to Mr. Pierson's concerns with the respect to certain bills. In response to questions, staff advised that the invoices presented for approval had already been paid and therefore would occur from our delaying approval of those bills which was a major part in why Ms. Novak voted no. Chair Feenstra inquired if Ms. Novak had a correction she wanted to submit for the language in the minutes or if Mr. Manning had a response to Ms. Novak's comments. Mr. Manning noted the recording secretary was taking notes on the corrections that needed to take place and Watermaster staff has no problem with including those comments given today. Mr. Manning asked if Ms. Novak could provide the recording secretary with the changes she discussed. Mr. Manning stated the minutes could be approved with the notation the minutes would be changed to reflect Ms. Novak's corrections.

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

Moved to approve Consent Calendar item A with the changes which will be provided to the Watermaster recording secretary from Ms. Jennifer Novak, as presented

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of June 2010
2. Watermaster Visa Check Detail for the month of June 2010
3. Combining Schedule for the Period July 1, 2009 through June 30, 2010
4. Treasurer's Report of Financial Affairs for the Period June 1, 2010 through June 30, 2010
5. Budget vs. Actual July 2009 through June 2010

Motion by Durrington, second by de Boom, and by unanimous vote

Moved to receive and file Consent Calendar item B, as presented

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – Monte Vista Water District will purchase 1,000 acre-feet of water from the City of Upland. This purchase is made first from the City of Upland's net underproduction in Fiscal Year 2009-10, with any remainder from the Excess Carryover Account –Date of Application: July 2, 2010
2. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company will purchase 10,000 acre-feet of water from the City of Upland's annual production right, then any additional from Excess Storage – Date of Application: July 2, 2010
3. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 500.000 acre-feet of water from West Valley Water District (WVWD). The transfer will be made from WVWD's storage account – Date of Application: July 2, 2010
4. **Consider Approval for Notice of Sale or Transfer** – Monte Vista Water District will purchase 4,000 acre-feet of water from the City of Upland. This purchase is made first from the City of Upland's net underproduction in Fiscal Year 2010-11, with any remainder from the Excess Carryover Account – Date of Application: July 29, 2010

Chair Feenstra commented on sensitivities within the agencies about the review of the invoices/bills and financial reports and stated it is the Agricultural Pool's intention to keep this Pool, in light of all that has happened in other cities and other agencies, with a complete transparent approach when it comes to any financial matters. Chair Feenstra noted the Agricultural Pool will watch the items that need our attention carefully. Chair Feenstra offered comment on current events regarding financial happenings. Chair Feenstra discussed an email which he had received from the CEO of Watermaster regarding the CFO of Watermaster having an open door policy for any of the Pool chairman or their designee to review documents at Watermaster. Mr. Manning confirmed an email was sent out with regard to allowing Watermaster bills to be reviewed by either a chairman or their designee to come to the Watermaster office for the review of invoices/bills. It was noted Mr. Pierson will be the designee from the Agricultural Pool. Mr. Manning noted there has been a change in the format on how

the financial reports are presented in the meeting packets for review this month and noted this format will continue from this point forward. Mr. Manning stated this should give the parties a better overview of Watermaster's financials. Mr. Manning noted this will not take much more staff time; however, it will take more paper to print the packages since the reports are prepared in landscape instead of portrait layout. Mr. Manning reviewed section IV Information in the meeting packet which offers a preview of the current financials. Mr. Manning stated Watermaster staff is asking to receive and file the financial reports and not approve them for the motion. A discussion regarding the review of bills and the approval process for paying Watermaster bills ensued.

Mr. Manning stated the Water Transactions for item 1C needs a motion still. Mr. Durrington inquired about the water transactions not mentioning a dollar value. Mr. Manning stated there are different options regarding water available and the dollar amounts for the transactions have been requested to not be made available and in many cases Watermaster does not even know what amount was paid for the water. Mr. Manning stated Watermaster does require the parties to let staff know what the dollar transaction was before the Assessment Package or the Annual Report and then that final amount is shown there. A lengthy discussion regarding the cost of the water in the transactions not being shown when they are on the agenda for approval ensued.

Mr. Vanden Heuvel inquired about the recent Fontana Water Company (FWC) transaction and noted he was under the impression they also had the largest replenishment need and asked where we are in terms of fulfilling our replenishment needs. Mr. Manning stated there are a number of transactions that took place in order for Watermaster to satisfy our total Cumulative Unmet Replenishment Obligation (CURO); Watermaster just purchased 5,000 acre-feet from Metropolitan Water District (MWD) under the cap which allowed us to pay Tier I rate for the water. FWC was able to purchase water from other agencies from within the basin on their own. Mr. Manning stated using all the strategies that we were able to garner over this past year; we were able to reduce our CURO from over 20,000 acre-feet down to 4,300 acre-feet. Ms. Novak inquired about the different rates for the purchase of water. Mr. Manning stated the difference in rates is because we had an offer at the very last minute to purchase at \$400 an acre-foot and Watermaster felt that was a reasonable rate. Mr. Manning stated the \$366 per acre-foot transaction had taken place prior to the higher priced transaction because that was based on an advertised rate. Watermaster put out notice that we wanted to purchase water at the \$366 per acre-foot rate and several agencies sold it for that amount and then at the last moment before the end of the fiscal year another agency offered their water at \$400 per acre-foot and Watermaster purchased it to further reduce our CURO. Mr. Manning stated the \$400 price was less than what we would have paid MWD if they had water to sell.

*Motion by Vanden Heuvel, second by Durrington, and by unanimous vote
Moved to approve Consent Calendar item C, as presented*

II. BUSINESS ITEMS (Tape 1 counter 177-231)

A. **NON-AGRICULTURAL POOL VOLUME VOTE CHANGES**

Mr. Manning stated this item has been put on the agenda as a result of discussions with the Non-Agricultural Pool; this is not an action item today. Mr. Manning reviewed the events that took place leading up to the item being placed on the agenda today for discussion and not action, this will most likely come back through the Watermaster process in September. The Non-Agricultural Pool had taken action in their own Pool meeting by a unanimous vote to change their volume vote to parallel the rules that are applied to the Appropriative Pool. Mr. Manning stated the change made is the number of people who have to be in the room or available to vote in order for a volume vote to be requested. Mr. Manning stated the Non-Agricultural Pool is looking for any comments the Pools or parties may have that would assist them in their filing of this action with the court. Mr. Manning noted the Non-Agricultural Pool not only has to take action within their own Pool, Watermaster staff and counsel believes that they have to file a Judgment amendment because Exhibit G will be changed in the Judgment. Mr.

Manning stated it is not clear who will file this change with the court. Mr. Lee stated he has received an email from Allen Hubsch who is the attorney for the Non-Agricultural Pool with regard to this matter and Mr. Lee's response was that there was no objection from the Agricultural Pool; however, the pleading needed to be reviewed prior to it being filed with the court. Mr. Pierson stated he feels the Non-Agricultural Pool should be able to determine their own method of governance so long as it is within the umbrella of the Judgment and the Peace Agreement. Mr. Pierson noted he also would like to see the pleading before it is filed. Mr. Manning stated there was no action taken at the Appropriative Pool; however, their discussion regarding this matter was similar to the one taking place now and they did not want to approve anything until they reviewed the pleading that was going to be filed with the court. Ms. Novak inquired as to why this does not fall into the category in the Judgment where it stated each Pool determines their own Rules & Regulations. Counsel Fife stated the Pooling Plans specify that each Pool can make its own Rules & Regulations; however, they must fall in line with the Judgment and not change what is in the Judgment and reflected in paragraph 46 which specifies that changes to the Pooling Plan require a Judgment amendment. A discussion regarding this matter and legal issues ensued.

No motion was made

B. ALCOA FINAL AGREEMENT *(Tape 1 counter 231-282)*

Mr. Manning stated this was reported on a few months ago when Watermaster had originally been contacted by the Alcoa representatives about taking over the wells for the purposes of maintaining monitoring. Mr. Manning stated Watermaster is more than willing to have another party take them over; however, since there has been no interest to date by others, Watermaster will take them over as to not lose the opportunity to use them for desired monitoring. Mr. Manning stated Watermaster has a restriction against owning property so these wells will be categorized as equipment. Mr. Manning stated Alcoa was required to drill the wells as part of the monitoring plan under a Regional Board order and after that the wells would be abandoned properly; although, they do provide necessary monitoring. This is why Watermaster is taking them over and not letting them be destroyed. Mr. Manning stated Counsel Fife has been negotiating with the Alcoa legal representatives to make sure this transaction meets our requirements. Mr. Manning stated staff is recommending the approval of the final agreement with Alcoa. Ms. Novak stated she thinks the format for the agreement is fine; however she has not analyzed it from a legal perspective. Mr. Pierson offered comment from attending the Appropriative Pool meeting regarding the insurance needed on the wells. Mr. Manning stated Watermaster will need to maintain the same insurance that they have previously maintained for the benefit of people who own the site; it is an easement. Mr. Manning stated the land itself is on land that is owned by the City of Fontana and the Flood Control District and Watermaster is only taking over the equipment itself and then will be continuing to use the wells for monitoring; the ownership of the land will be retained by the two agencies. A lengthy discussion regarding maintenance, monitoring, and this matter in its entirety ensued.

*Motion by Pierson, second by Vanden Heuvel, and by unanimous vote
Moved to approve Alcoa's final agreement, as presented*

III. REPORTS/UPDATES *(Tape 1 counter 282-345)*

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. CDA Facilitation

Counsel Fife stated he will address this item and then there will be an additional item to report on. Counsel Fife stated there have been several meetings and telephone conference calls on a regular basis. Counsel Fife stated Scott Slater and Ken Manning are the two primary people heading/ attending all the meetings. The facilitation is moving forward with the goal of getting the expansion to happen under the schedule which was submitted to the Regional Board. Counsel Fife stated one of the key components is a set of assurances that the parties want from Watermaster. Counsel Fife stated it is anticipated that in September the resolution is to be presented through the Watermaster process. The resolution will contain

a series of commitments for Watermaster to make with regard to liabilities and backstopping various aspects of the Expansion Project. Mr. Manning stated the resolution itself is reaffirmation of things that are included within the Peace Agreement and obligations that Watermaster already has and will be stated in one particular location so that all parties can have them readily available. Mr. Pierson inquired regarding the timeframe. Mr. Manning and Counsel Fife noted that the document is still being worked on. Comments are still being received on the resolution; however, it is anticipated to be completed shortly. Counsel Fife stated the document will need to be reviewed and there will be a period of time for comments so the document will be distributed as soon as possible. It was noted the Watermaster parties will be able to review the document prior to the approval process. Ms. Novak inquired about the CDA's decision to pump in the shallow zone only and not as originally designed which is part shallow and part deep. Mr. Manning stated that is correct.

Added Item:

Counsel Fife stated yesterday, a notice of appeal was received from the Non-Agricultural Pool with regard to their Paragraph 31 Motion and there is a copy of that pleading on the back table. The notice is stating they are going to appeal and contains no other statements. Counsel Fife stated now there will be a process through the appellate court of preparing a record to base its decision on. After that there will be a period of time given to the Non-Agricultural Pool to file their opening brief and then a period of time to prepare any responses. This notice now starts the whole process and it is anticipated it will be several months before there is an actual opening brief. Counsel Fife stated there is also a separate appeal from California Steel Incorporated. A discussion regarding this issue ensued. Counsel Fife stated the Watermaster Board is not making a claim against the Non-Agricultural Pool. It is our understanding is that the Appropriative Pool has requested reimbursement from the Non-Agricultural Pool; this counsel is not involved in those discussions. Mr. Lee stated there is a legal issue of whether or not it states the opportunity to file a motion for attorney fees in the appeal.

B. ENGINEERING REPORT *(Tape 1 counter 345-629)*

1. Horizontal Stain Monitoring in the MZ1 Monitoring Zone Presentation

Mr. Manning introduced the OBMP Implementation Plan presentation that will be given today by Andy Malone. Mr. Malone stated this item is for information only and the same report was given to the Appropriative Pool last week; however, the Non-Agricultural Pool passed on the presentation since their meeting was via a conference call. Mr. Malone noted this topic is discussed frequently during the MZ1 Technical Committee meetings. Mr. Malone read Exhibit B from the Peace Agreement. Mr. Malone stated what we are trying to find out is what is considered tolerable subsidence and fissuring. Mr. Malone showed slides of actual fissure locations in 1991 and 1992 on the CIM property. A map of the Projected Drawdown (ft) in the Deep Aquifer System Peace II Alternative 2030 was reviewed in detail. Mr. Malone showed slides of street maps from an aerial view and discussed them in detail. A spreadsheet of the Ayala Park Dual Extensometer Facility from July 2003 to April 2005 was reviewed in detail. Mr. Malone reviewed the upcoming schedule which is a multi-year project and noted the project includes: Periodic check-in with MZ1 Technical Committee members, revision of the program when necessary, and Watermaster approval which is required each year due to the financial aspects of the project. Mr. Manning stated discussions during the MZ1 Committee have already begun and starting next year the committee will be broadened because of the modeling work that has been done by Wildermuth. A lengthy discussion regarding shallow versus deep pumping, fissuring, subsidence tolerance, structural damages, and the presented information ensued. Mr. Manning offered comment on the drawdown diagrams showing deep and shallow pumping affects. A further discussion regarding deep and shallow pumping with regard to the Voluntary Management Plan ensued. Mr. Malone stated both Wildermuth Environmental and Watermaster staff feels the MZ1 Technical Committee should be expanded from an MZ1 area only, to more of a subsidence management district committee. This would allow more participation from other Watermaster parties who are

outside of the MZ1 area. Mr. Pierson stated he agreed the MZ1 Technical Committee should be broadened for all the reasons discussed today. A discussion regarding nitrates ensued. Mr. Malone stated the program may need to be revised and will need to go through the Watermaster process for the next two years to see it through completion.

C. CEO/STAFF REPORT *(Tape 1 counter 629-765)*

1. Legislative Update

Mr. Manning stated the legislature is dealing with the bills that are necessary to get their bills through process and get them to the governor for signature. Mr. Manning noted there is a press release on the back table where both the senate and house passed the bond delay. Mr. Manning offered comment on the bond issue. Mr. Manning stated there is still no budget.

2. Recharge Update

Mr. Manning stated the year end recharge data information spreadsheet is provided in your packets. Mr. Manning stated overall this year is characterized as a very good year for recharge, despite the problems with obtaining imported water through the Metropolitan Water District. Mr. Manning stated the recharge basins were able to take in over 5,000 acre-feet of imported water; however, the rate is still not known. The Cumulative Unmet Replenishment Obligations (CURO) was assisted by taking in that imported water. Mr. Manning reviewed the storm and recycled water year end numbers in detail.

3. Implementation of MWD's Water Supply Allocation Plan

Mr. Manning stated there are several items tied together regarding this item. Mr. Manning offered comment on the IRP hearing that was held by Metropolitan Water District (MWD) in Ontario recently. MWD is adopting a new IRP and it is a long term plan. Watermaster by virtue of the Groundwater Committee at MWD has participated with them on some of the development issues relative to groundwater; although, staff is of the opinion MWD got about two thirds of the way through that process and then stopped after they had received what they wanted. Mr. Manning stated groundwater managers got together with them, a draft white paper is being drafted and a cover letter that will be sent to MWD as part of the IRP hearing process that outlines the fact that additional work needs to be done. A brief discussion regarding this matter ensued.

4. Peace II SEIR

Mr. Manning stated Inland Empire Utilities Agency (IEUA) has issued the draft Peace II SEIR and comments from several agencies have been received. The responses to the comments have been drafted and the document will be ready for distribution, including the responses, shortly. Mr. Manning noted the soonest it would be adopted by the IEUA board would be in the mid September time frame.

5. Strategic Planning Conference – October 4-5, 2010 *(Tape 1 counter 629-765) and (Tape 2 counter 1-)*

Mr. Manning stated Watermaster will be holding its 6th Annual Strategic Planning Conference on October 4th and 5th locally at the Frontier Project. Mr. Manning noted in his opinion this will be the start of Peace III. The Sunday prior, Watermaster will be hosting a small golf tournament and kick off reception at the Sierra Lakes Golf Course. Mr. Manning stated the main topic discussed at the conference will be the implementation of the Recharge Master Plan; however, this appears to be the beginning of Peace III. Ms. Novak asked that a summary of events/discussions that take place at the conference be provided as quickly as possible after the conference for those who cannot attend the conference. Mr. Manning stated the agenda will be out shortly and a summary will also be provided. Mr. Manning stated discussions will include policy issues, scheduling issues, funding issues, and how we start to move through those subjects.

6. Water Activity Reports *(Tape 2 counter 7-13)*

Mr. Manning stated all the Water Activity Reports (WAR) have been issued and they all need to be turned in as soon as possible. Mr. Manning stated both the Appropriative Pool and the Non-Agricultural Pool reports were issued; however, with the filing of the Non-Agricultural Pool to appeal, the Non-Agricultural Pool's appeal will have to be redone because the reports did not reflect the transaction of the water. With that, the appeal that will be rescinded and then recertified.

7. Non-Agricultural Pool Special Assessment

Mr. Manning stated this is for your information and is to have complete transparency; the Non-Agricultural Pool had this item on their agenda as a business item regarding assessing themselves for \$150,000 for legal fees; however, they took no action to assess themselves at their August 5, 2010 meeting.

Added Item: *(Tape 2 counter 13-19)*

Chair Feenstra stated Frank Brommenschenkel had some given some comments to Steve Lee. Mr. Lee stated Mr. Brommenschenkel had provided some comments to him with respect to the water transactions 1 and 4 which involved Monte Vista Water District. Mr. Brommenschenkel believed those amounts were small enough that it would not impact the subsidence and he wanted to make sure the Technical Committee and Wildermuth Environmental monitored that so that was no material physical injury. Mr. Manning stated Wildermuth is a part of all those transactions.

IV. INFORMATION

1. Cash Disbursements for July 2010 as of July 28, 2010

No comment was made regarding this item.

2. Newspaper Articles *(Tape 2 counter 19-66)*

Mr. Durrington offered comment on one of the articles regarding Rialto or Fontana receiving money. Mr. Manning stated Watermaster is a part of that study. A brief discussion regarding this item ensued. Mr. Novak noted she was part of the negotiations between West Valley Water District and the City of Rialto and stated it is for a treatment plant and described briefly what the plant will do and what the situation is. Mr. Manning offered comment about the water that is moving between the Colton/Rialto into the Chino Basin, across the fault line, and our modeling would indicate there is none that is moving across that fault line. Mr. Manning noted the water moves parallel to that fault line and Fontana still believes that water is coming across. Fontana has asked and received federal funds for a study; USGS is the lead agency on the development of this study. A discussion regarding this matter ensued.

Mr. Vanden Heuvel offered comment on a newspaper article regarding TCE and contamination of groundwater coming out of the wastewater treatment facility on page 119 of the meeting packet and noted he would like staff to provide an update and discussion at a future meeting on this matter. Chair Feenstra offered comment on this item stated this will be discussed during closed session.

Chair Feenstra inquired to the Watermaster CFO regarding the balance of Agricultural Pool funds. Mr. Joswiak stated he had and it is on page 29 in the meeting packet and noted the Agricultural Pool has \$473,483 in that account. A brief discussion on the investment of this money ensued.

V. POOL MEMBER COMMENTS

No comment was made regarding this item.

VI. OTHER BUSINESS

No comment was made regarding this item.

The regular open Agricultural Pool meeting was convened to hold its confidential session at 10:12 a.m.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

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

The confidential session was convened at 11:00 a.m.

There were no reportable actions.

VIII. FUTURE MEETINGS

Thursday, August 12, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, August 19, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, August 19, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, August 26, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

The Agricultural Pool meeting was dismissed by Chair Feenstra at 11:01 a.m.

Secretary: _____

Minutes Approved: September 9, 2010