

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING
September 9, 2010

The Agricultural Pool Meeting was held at the offices of the office of Inland Empire Utilities Agency, 6075 Kimball Avenue, Chino, CA, on September 9, 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, 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
Danielle Maurizio	Senior Engineer
Ben Pak	Senior Project Engineer
Sherri Lynne Molino	Recording Secretary

Watermaster Consultants Present

Scott Slater	Brownstein, Hyatt, Farber & Schreck
Joe LeClaire	Wildermuth Environmental Inc.

Others Present Who Signed In

Steven G. Lee	Reid & Hellyer
Dave Crosley	City of Chino
Gil Aldaco	City of Chino
Mohamed El-Amamy	City of Ontario
Anthony La	City of Upland
Tom Love	Inland Empire Utilities Agency
Lynne Preslo	Geo Eco
Marsha Westropp	Orange County Water District

Chair Feenstra called the Agricultural Pool meeting to order at 9:05 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 August 12, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of July 2010
2. Watermaster Visa Check Detail for the month of July 2010
3. Combining Schedule for the Period July 1, 2009 through July 31, 2010
4. Treasurer's Report of Financial Affairs for the Period July 1, 2010 through July 31, 2010
5. Budget vs. Actual July 2010 through July 2010

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

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

II. BUSINESS ITEMS**A. PEACE II AGREEMENT AND PHASE III DESALTER EXPANSION**

Mr. Manning stated Scott Slater is at today's meeting to present this item and to answer questions. Mr. Manning stated the work that is being done with the desalter group and expansion is an outgrowth of the requirement to expand the desalters to 40,000 acre-feet. As the process is moving forward with developing the plan to include Western Municipal Water District (WMWD) and expand the desalters with Jurupa Community Services and the City of Ontario; it is important to understand this is a \$120 million dollar project. The parties involved have requested that Watermaster take action to reaffirm their commitments that Watermaster has made in previous documents. Watermaster has constructed a resolution which has gone to the Watermaster Board; the Board moved to send the resolution through the Watermaster process and for Watermaster to schedule a workshop. The workshop will be held on September 14, 2010 from 10:00 a.m. to 12:00 p.m. at Watermaster. Mr. Manning stated the resolution will be brought back through the process in October after the meetings and workshop which will allow changes to be made from various discussions and recommendations. Counsel Slater stated the workshop will be to receive input, and to have findings that are supported by substantial evidence prior to the Watermaster Board taking action. This will then be filed and presented to the court at a hearing. Counsel Slater stated at the workshop he will review Watermaster's control over this project and process; re-identify what the control points are, review the concepts of the desalters and the 40,000 acre-feet of desalting capacity, the OBMP goals which were later put into the OBMP Implementation Plan and Agreement. Counsel Slater stated with regard to the desalters, there was a global commitment to complete a certain level of desalting by a certain time, which was presented to the court as an agreement. Counsel Slater reviewed that agreement which is the original Peace Agreement; that was the Chino I Expansion and Chino II authorized. Counsel Slater noted the original desalter was owned by Santa Ana Watershed Project Authority (SAWPA) and Project Committee 14 which was later transferred to the present CDA members; all parties signed up for future desalters. Counsel Slater reviewed the original benefits from desalting/desalters including a commitment to do another round of desalting. Counsel Slater discussed the process and issues regarding future desalting. Counsel Slater stated the Resolution captures all issues, internal to the CDA and the Expansion Group, because they no longer have any further issues among themselves; they are now embodied in the Water Purchase Agreement. There are still smaller agreements and items that have to come along with that; however, they are workable and should not hold the process up. Counsel Slater stated while in the process of working out the other agreements/items, other additional issues were identified which involve both the CDA and Watermaster. Counsel Slater stated Watermaster's primary interest is to construct the desalters which meet the courts' obligation and all the parties have an economic and stakeholder interest as well. Counsel Slater reviewed the consequences of this matter defaulting which is a provision in the Peace II Agreement. Counsel Slater commented on Hydraulic Control, locations of wells, having no material physical injury, and the applications to avoid subsidence. Counsel Slater stated Watermaster must make legal findings in order for this project to proceed. Watermaster is going to need evidence to demonstrate what is being done to effectuate the purpose of the OBMP. Counsel Slater discussed the Chino Airport plume, how contamination will be addressed, unexpected costs, and the CEQA process including what the mitigation responsibilities are going to be. Counsel Slater stated there are a number of issues which are

embedded in the Resolution; it's a template and it has not been signed off by the Watermaster Board; however, it has worked its way through the CDA process. Counsel Slater stated once all the conclusions transpire, a pleading will be drafted which will go to the court. Counsel will ask the court for the same direction that has been requested in all other instances and Watermaster will receive an order to proceed. Counsel Slater noted there is one particular control point which needs to be presented to the Appropriative Pool, which is that counsel and staff have been very careful not to negotiate and to only facilitate and bring issues forward in a way that does not change or modify any prior agreement. Chair Feenstra inquired about the comment, "We are done", made by Counsel Slater. Counsel Slater stated that the comment, "We are done", means is that a report was presented to the court in 1999 and that report gave rise to high levels of concern about capital requirements for basin protection. These capital expectations were clearly hundreds of millions of dollars. The court ordered Watermaster to complete those desalters which were defined as, the existing desalters, the expansion, and then the future desalters. In the future desalters there was no workout on how the future desalters were going to be addressed. The Peace II Agreement solves the future desalting issues. Counsel Slater stated the hangover obligation that existed back in 2000, upon completion, was done as a basin, with regarding to the prior court order; no more desalting as an obligation of Peace II. A discussion regarding today's economy with regard to funding, grants, and payments ensued. Chair Feenstra inquired about any shortfall and if there is, who does Watermaster or the court look to. Counsel Slater stated the requirement of the Purchase and Sale Agreement Cap X is going to be fully funded in advance of construction. All of the participants are locked in and ready to fund their cap X obligation and the arrangement between the CDA and the Expansion Group. If there should be in interim shortfall on part of any one of the expansion parties, that CDA has the right to come in and take over that element, finance it, and then turn around and assess the entity for the cost of completion. Once the parties reach the go-no-go date, there is no turning back; the go-no-go date should be this calendar year. Mr. Manning offered further comment regarding financing arrangements. A discussion regarding water rates and the cap ensued. Counsel Slater offered comment on receiving monies between now and the close, and if received money could affect the driving cost; the parties are entitled to a sharing of that cost reduction. There will be a request by the Expansion Group to MWD for a local resources program subsidy regarding this matter for a reduced subsidy. Counsel Slater offered further comments on MWD rates and subsidy cost cap. Counsel Slater noted Watermaster is not entering into an agreement with the CDA. Ms. Novak commented on Watermaster having assurances from CDA to be responsible to Watermaster with regard to any material physical injury including water quality and water supply and she noted it is of concern. Ms. Novak inquired if Watermaster assumes the liabilities if one or all of those concerns occur. Counsel Slater stated the CDA is not a party to the Judgment, all of its members are, and the question if the CDA needs to be a party to the Judgment comes up frequently. Counsel Slater stated the CDA not being a party to the Judgment does not interfere with Watermaster's ability to enforce the orders of the court and the agreements that the parties have. There is a control point; the control point is the obligation that WMWD's and WMWD promised to all of the parties, the court, and Watermaster, to do something on a schedule. Counsel Slater stated there were some options associated with what WMWD chose to do. Some of those options were to bring Jurupa Community Services District (JCSD) and the City of Ontario into the project for purposes of expansion. Counsel Slater stated once WMWD adds those parties into its fold, the obligation becomes shared as partners, and there is accountability to all to meet the schedule. Counsel Slater offered further details on the shared accountability/obligations. Counsel Slater stated Watermaster needs to have a record to demonstrate no material, physical harm. The Resolution references exhibits, and shortly staff and counsel will have the basis for the exhibit to distribute at the workshop which will describe the plan; the process will be referred to in the Resolution and it would be ongoing. Counsel Slater stated with regard to the well impacts, there is a differentiation that is in the context of the Resolution between the difference between, across the basin variations and water levels that occurred historically. Counsel Slater commented on the history of the water table and historical variations; that is not an obligation of CDA. Counsel Slater stated if there was an impact today, related to the existing desalters, there was an approved contingency plan/emergency response plan that CDA prepared and was part

of the Watermaster process in 2002 when the finding of no material physical harm was completed. There is a plan related to the existing desalters. There will be a plan presented to Watermaster by the CDA forthcoming; however, it is not known if it will be the existing plan refreshed or a new plan which will go through the Watermaster process. Counsel Slater offered comment on unforeseen calamity occurring in the future and noted that sort of future occurrence, Watermaster cannot advocate its responsibility under this provision and under the Judgment; Watermaster would have a continuing role. Counsel Slater stated this would not pertain to subsidence which is clearly addressable on its own; there is a provision that states if there is a well interference problem that the parties' remedies remain a common law. Counsel Slater noted even though a process is set up, and Watermaster has made its decision, it is not issue preclusive; a party could still go out and bring action in common law if they were not satisfied with the CDA's approved process. Ms. Novak summarized the statements made regarding this item. Mr. Manning stated he has reminded the parties that Watermaster is going to at the next budgeting cycle will include a more dynamic monitoring program to be installed in the southern end of the basin to ensure Watermaster and the parties understand what is happening within the shallow and deep aquifer. Mr. Manning discussed the subsidence issues and noted Watermaster's monitoring will allow us to be able to take defensive actions and work with the parties, which is the CDA, on how to mitigate or how to eliminate potential event long before it happens.

No motion was made.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. September 24, 2010 Hearing

Counsel Slater stated there is a hearing scheduled for September 24, 2010 at 10:30 a.m. which is going to include two items; 1) Motion for a Judgment Amendment by the Non-Agricultural Pool, and 2) Approval of the Recharge Master Plan. Counsel Slater stated during a recent hearing with Judge Reichert, he did indicate he would be interested in an educational hearing such as one provided to previous judge and suggested the September 24th hearing would be a good time to start that process. Counsel Slater stated the intention is to present testimony in the same nature as information was presented to Judge Wade. Counsel Fife stated Andy LeClaire will give a presentation regarding recharge, how it works, what it is all about, what the Chino Basin is all about, supplemental water, and all the issues that would work into the action Judge Reichert has to take on the Recharge Master Plan.

2. Non-Agricultural Pool Appeal

Counsel Slater stated the Non-Agricultural Pool has filed their Notice of Appeal which has been followed up by the procedural items such as designating the record. Once all the procedural items have been completed and fixed, the Court of Appeals will provide a schedule which will include the opening brief by the Non-Agricultural Pool, any responses, a responsive brief from the Non-Agricultural Pool, and then the actual hearing.

B. ENGINEERING REPORT

1. Basin Plan Amendment Update

Mr. LeClaire stated he is going to provide background on information on the 2004 Basin Plan Amendment and the upcoming 2011 Basin Plan Amendment. Mr. LeClaire reviewed a map of Current Hydraulic Control Surface Water Monitoring in detail. Mr. LeClaire offered comment on the 2004 Basin Plan Amendment. Mr. LeClaire reviewed a map of Current Hydraulic Control Groundwater Monitoring in detail. Mr. LeClaire offered comment on the upcoming 2011 Basin Plan Amendment which is currently being worked on.

C. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated legislatures are working hard to get the last few pieces of legislation through prior to the August 31st deadline. Mr. Manning reviewed some of the bills of interest

to the Chino Basin. Mr. Manning offered comment on the state budget; however, they did go through the protocol in submitting a republican and democratic budget and neither one of them felt they had enough votes to get either one of them through; they didn't. Mr. Manning stated the democrats want additional taxes and the republicans want no taxes; it appears with this being an election year, the chances of getting a budget before November is very unlikely. Having no budget means there will be a great deal of trauma in the state of California which is unfortunate.

2. Recharge Update

Mr. Manning stated staff has not been provided the most recent numbers from IEUA for staff to put together its recharge spreadsheet. Staff is anticipating having the spreadsheet by the Advisory Committee meeting.

3. GRCC Recharge Improvement Activities Prior to the Recharge Improvement Implementation

It was noted this presentation will be given at the October meeting.

4. Peace II Resolution Workshop – September 14, 2010

Mr. Manning stated the Peace II Resolution Workshop will be held on September 14, 2010 at 10:00 a.m.

5. Discussion on Closed Session Rules for Policy Manual

Mr. Manning stated this item was mentioned a few months ago and it was noted during those discussions, this item would begin to be worked on directly after the Paragraph 31 Motion was completed. Mr. Manning stated staff has reviewed portions of the Policy Manual regarding closed session rules. There are two portions in that manual that reference meetings of Pools and closed session and/or those kinds of issues; however, before the process begins to revise those rules, Watermaster staff would like to have counsels of each of the Pools meet and get their input. Mr. Manning stated how the rules are currently stated in the Policy Manual; they do not reflect what is presently taking place or what is intended to take place in the future. Staff is seeking clarification and Watermaster has tasked Michael Fife to coordinate a discussion amongst the legal counsels of the different Pools before this matter is brought back through the Watermaster process. Staff would like those discussions to have taken place so that it is correctly presented as to how the new rules will possibly be applied in the revised Policy Manual regarding closed sessions.

6. Auction Oversight Committee

Mr. Manning stated this was an action item for the Appropriative Pool and the Non-Agricultural Pool this month at their meeting; the action was to keep in place the Auction Oversight Committee.

7. Assessment for Regional Board Fine

Mr. Manning stated this item was on the Appropriative Pool agenda because that pool had asked for some options from Watermaster staff to provide them with guidance on possibly changing the Assessments are done for the Regional Board ACL fine. The options were presented to the Appropriative and the Non-Agricultural Pool members this month which included five options. Mr. Manning noted the parties of those pools will be meeting to discuss their options and will present their findings to Watermaster staff. Ms. Novak inquired about Watermaster assessing fees. Mr. Manning stated the assessment of the fine is a special assessment and because it is a special assessment amongst the Appropriators they can assess themselves a special assessment. If it was a budget modification, it would then have to go through the Watermaster process.

IV. INFORMATION

- 1. Cash Disbursements for August 2010 as of August 25, 2010
No comment was made regarding this item.
- 2. Newspaper Articles
No comment was made regarding this item.

V. POOL MEMBER COMMENTS

Chair Feenstra asked that special attention to the rules for closed session include discussion with Steve Lee and the chair so that our input is clearly heard and understood prior to them being published. Mr. Manning agreed.

VI. OTHER BUSINESS

No comment was made regarding this item.

The regular open Agricultural Pool meeting was convened to hold its confidential session at 10:20 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.

- 1. General Discussion on Ontario Plume of Contamination

The confidential session concluded at 11:30 a.m.

Reported Action: By Steven Lee

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

“The Agricultural Pool is supportive of the sharing of information possessed by the ABGL Group to Inland Empire Utilities Agency and the cities of Upland and Ontario via their joint consultant (Dr. Dennis Williams) in a “dot plot” format pursuant to the confidentiality agreement that is to be signed between the ABGL Group on the one hand and IEUA and the cities of Upland and Ontario on the other hand. The data being produced is to be sent to counsel representing the City of Ontario (Fred A. Fudacz), as presented

VIII. FUTURE MEETINGS

Thursday, September 9, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Tuesday, September 14, 2010	10:00 a.m.	Peace II Resolution Workshop @ CBWM
Thursday, September 16, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, September 16, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, September 16, 2010	11:00 a.m.	Water Quality Meeting @ CBWM
Thursday, September 23, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Friday, September 24, 2010	10:30 a.m.	CBWM Hearing @ Chino Courthouse

The Agricultural Pool meeting was dismissed by Chair Feenstra at 11:30 a.m.

Secretary: _____