

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING

September 8, 2011

The Agricultural Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on September 8, 2011 at 1:00 p.m.

Agricultural Pool Members Present Who Signed In

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

Watermaster Board Member Present

Bob Kuhn	Three Valleys Municipal Water District
Geoffrey Vanden Heuvel	Dairy

Watermaster Staff Present

Desi Alvarez	Chief Executive Officer
Danielle Maurizio	Senior Engineer
Gerald Greene	Senior Environmental Engineer
Joe Joswiak	Chief Financial Officer
Janine Wilson	Recording Secretary

Watermaster Consultants Present

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

Others Present Who Signed In

John Mura	City of Chino Hills
Tracy Egoscue	Paul Hastings
Dave Crosley	City of Chino
Richard Rees	State of California, Dept. of Justice, CIM
Eunice Ulloa	Chino Basin Water Conservation District
Paul Deutsch	Geomatrix
Bob Gluck	City of Ontario

Chair Feenstra called the Agricultural Pool meeting to order at 1:05 p.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 11, 2011

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of July 2011
2. Watermaster VISA Check Detail for the month of July 2011
3. Combining Schedule for the Period July 1, 2010 through July 31, 2011
4. Treasurer's Report of Financial Affairs for the Period July 1, 2011 through July 31, 2011
5. Budget vs. Actual July 2010 through July 2011

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

Moved to approve Consent Calendar items A and B, as presented

II. BUSINESS ITEMS**A. APPLICATION OF THE 85/15 RULE (For Information and Discussion)**

Mr. Alvarez stated this item is an informational item regarding the 85/15 Rule. Mr. Alvarez stated this item was raised by the Appropriative Pool and asked staff to make a presentation on the application of the 85/15 Rule. Mr. Alvarez gave the 85/15 Rule presentation which included topics on Background, Paying for Replenishment of Overproduction, Judgment Language, 85/15 Rule Participation, General Application, Replenishment Application, Application in Recent Assessment Packages, Future Application, and Water Transfer Example. Mr. Alvarez stated, on a moving forward basis, the application of the 85/15 Rule would be consistent with the language in the Judgment and will only apply to replenishment water whether it is purchased or transferred. Mr. Alvarez stated it will be required to make up for the previous year's overproduction, and specifically in terms of the preemptive replenishment water. Mr. Alvarez stated the Appropriative Pool had discussion on this topic this morning and formed an ad-hoc committee. That committee will later provide direction to Watermaster to establish a process for moving forward in applying the 85/15 Rule. A workshop on this matter will also be scheduled in the near future. Chair Feenstra inquired if there were any questions on the presentation on the 85/15 Rule given by Mr. Alvarez. Mr. Koopman inquired as to why an ad-hoc committee was formed and exactly why they will be studying this rule. Mr. Alvarez stated a thorough analysis was done on the 85/15 Rule by staff and it has been the subject of periodic discussion amongst the Appropriative Pool members on how to apply it, when it should be applied, if it should be applied, etc. Mr. Alvarez stated right now there are two issues, one being should Watermaster do anything to make a correction on this previous application of the 85/15 Rule which is not consistent with the actual language in the Judgment. Staff's proposal was to leave it alone. The second one was how to apply it in the current year, which ended June 30, 2011, for which the Assessment Package is being applied now. Mr. Alvarez stated there is one party that has purchased water in excess of the amount of water required for their overproduction and staff feels there is a need for further discussion for the parties to provide direction on how to move forward in the future. Mr. Koopman inquired further into what the problem is with applying this rule. Mr. Feenstra inquired if this is a problem or a concern. Mr. Koopman offered comment on what the Judgment states regarding this matter. Mr. Alvarez stated the City of Pomona and Marygold Mutual Water chose to be exempted from the application of the 85/15 Rule and the other parties decided that the 85/15 Rule would be the appropriate way to assess for payment of the replenishment water for the preceding year overproduction. Mr. Koopman inquired about the people who are buying water for future replenishment and if all that water is subject to losses, at 2% per year. Mr. Alvarez stated the water that is being put in storage accounts, whether it's carry over storage or for preemptive storage, will be subject to 2% losses or whatever the current loss factor is; today it is 2%. Mr. Durrington inquired if this has anything to do with the Agricultural Pool. Mr. Alvarez stated this item does not have to do with the Agricultural Pool and noted this is just an item for information. However, it is pertinent to the Appropriative Pool for them for discussion and for them to provide staff with direction. Counsel Slater stated under the rules in the Judgment parties are entitled to cross notice of action being taken in the other Pools. Counsel Slater stated from counsel and staff's point, the Pooling Plan sets the rules within the Appropriative Pool for how they pay for replenishment, and what counsel and staff has right now is a lack of interpretive direction from the Appropriative Pool. Counsel Slater stated what the Appropriative Pool is intending to do is to go back with Watermaster's assistance and conduct a workshop, and out of that, provide Watermaster direction on how they wish to apply the 85/15 Rule. Counsel Slater

stated there is no aspect of the 85/15 Rule that pertains to the Agricultural Pool; it is exclusively confined to the Appropriative Pool's Pooling Plan. Counsel Slater stated if the Appropriative Pool decides to change the 85/15 Rule it would require a Judgment amendment. However, they are not proposing to change it – they are proposing interpretative guidelines. Mr. Mura stated he believes the Watermaster CEO and general counsel has done a good job of explaining the situation and where the Appropriative Pool plans on going with this currently. Mr. Mura stated, to give further comment, there was a little bit of inconsistency which was of no fault of Watermaster on how some purchases and transfers were subjected to the 85/15 Rule. Mr. Mura stated over the last several months Watermaster, on behalf of the appropriators, have been moving in a proactive role in acquiring water for future replenishment needs and, as it devised now, the current 85/15 Rule would only apply to overproduction in the current year. Mr. Mura stated the Appropriative Pool wants to look at other possible opportunities for the parties to take advantage of short term opportunities for water at low costs to meet future replenishment obligations that would benefit all of the basin. Mr. Mura stated the parties want to have a workshop, open to all, for discussions to find a better way for parties have rules, policies, and procedures that would facilitate individual responsibility for overproduction, while still keeping in mind the overall CURO in the basin. Mr. Mura stated this is a positive step for the basin and a positive step for the agencies. Mr. Koopman offered further comment on the current application of the 85/15 Rule. A discussion regarding Mr. Koopman's and Mr. Mura's comments ensued. Chair Feenstra inquired if the Appropriative Pool decided to make an amendment to the 85/15 Rule and not just an interpretative guideline, would that then come through the Watermaster process for all to vote on. Counsel Slater stated if the Appropriative Pool chooses to pursue a Judgment amendment, that becomes an issue for everyone, or if they choose an interpretative guidelines to provide instructions to Watermaster that would only be a rule matter with in the Pool. Ms. Novak stated because the 85/15 Rule really does not apply to the Agricultural Pool's water she does not pay particular close attention to it. However, this is part of Watermaster and how business is done and therefore something this Pool should be aware of. Ms. Novak stated in reviewing the agenda package, and in all the time she has been involved with Watermaster, this is the best staff report she has seen because it clearly stated what the issue was, gave the purpose behind the rule, discussed the rule, provided the actual language from the legal documents, then showed how it applies in the real world and to whom it applies, and how. This is information we all need to be aware of because if we later hear there is a dispute between members of the Watermaster family, it is nice to see where that dispute is coming from. Ms. Novak noted she greatly appreciated the information provided.

B. PRESENTATION ON THE STATE OF THE BASIN REPORT (For Information Only)

Mr. Alvarez introduced the State of the Basin presentation and noted this will be the first in a series of several parts for this report. Mr. Wildermuth stated the State of the Basin Report is done every two years. Mr. Wildermuth stated this year Wildermuth Environmental prepared a coffee table book which has nothing but pictures, tables, and charts in it. Mr. Wildermuth stated that embedded into the charts are text boxes filled with information, which will be helpful when reviewing this report. Mr. Wildermuth gave the Groundwater Levels and Storage 2000 to 2010 presentation which included maps and charts in detail. Mr. deBoom inquired as to the depth of the shallow zone. Mr. Wildermuth stated it is 150 feet. Mr. Wildermuth continued with his presentation. Chair Feenstra asked that Mr. Wildermuth point out the location of the prison. Chair Feenstra stated he has been getting reports that there are some water losses in the CIM area of farming. Mr. Wildermuth asked if it was that wells are not producing. Chair Feenstra stated that was correct, that it is that wells are not producing like they were in other years. Mr. Wildermuth stated he could not comment on that at this point in time and would have to research that, and noted sometimes perfectly good wells go through that because they are old. Ms. Novak stated the data used to derive the shown chart is only until about spring of 2010 so any changes to water levels that would have occurred after spring 2010 wouldn't be reflected in the shown map. Mr. Wildermuth stated that was correct, and if the parties are interested he could go through each of the management zones 1, 2, 3, 4, and 5 and explain what is going on. Mr. Wildermuth continued with his presentation and explanation of happenings in the management zones. Mr. Geoffrey Vanden Heuvel asked several technical questions and offered

concerns regarding the information being presented. Mr. Wildermuth answered Mr. Geoffrey Vanden Heuvel's questions and noted some of the questions are a look up. Mr. Wildermuth continued with his presentation. Mr. Koopman inquired about a chart being shown and asked how much our ability to capture that rain changed during that same period of time from 1978 to current. Mr. Wildermuth reviewed the timeline in detail and explained what has been happening in the basins to answer Mr. Koopmans question. Mr. Koopman inquired about the basins total physical capacity now on an annual basis. Mr. Wildermuth stated between 80,000 and 100,000 acre-feet depending on the state of the basin and the conditions of the individual basins. Mr. Wildermuth continued with his review of the management zones in detail. Mr. Geoffrey Vanden Heuvel offered comments on the Desalter Agreement, the Regional Board with regard to management zones and dairy areas, and Hydraulic Control. A discussion regarding management zones, the Regional Water Quality Control Board, and Mr. Vanden Heuvel's comments ensued. Mr. Koopman inquired if there is enough recharge capacity to meet the recharge requirements to keep the Chino Basin whole if MWD only has replenishment water available three out of ten years, or maybe even five out of ten years. Mr. Wildermuth stated in his opinion MWD does not have enough replenishment to meet our needs without the Desalters and will most likely have to purchase water at the Tier I rate, or whatever rate structure they have in place at the time in addition to whatever is available for a so called replenishment rate. This is stated in the Recharge Master Plan. Mr. Alvarez stated it is going to increase in the 24,000-25,000 acre-foot range. Additional recharge that will be required to make up the Desalter is the challenge for Watermaster as we look forward to meeting the recharge requirements in the basin. Mr. Wildermuth offered comments on the State Water Project. A lengthy discussion on recharge basins, price of water, and supply of water ensued.

C. GROUNDWATER MODEL UPDATE (For Information Only)

Mr. Wildermuth stated excellent progress is being made on building and recalibrating the groundwater model. However, there are a couple of the water agencies who are not responding to the data requests, which are hindering this project. Mr. Wildermuth stated it was Wildermuth Environmental's intention in the October/November time frame to come to the Watermaster meetings and discuss planning scenarios. There were no further questions or comments.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Next Hearing Schedule and Preparation

Counsel Slater stated staff and counsel have been meeting with the various stakeholders with regard to presenting Watermaster Resolution 2010-04 to the court. This is in connection with asking the court for direction to proceed with the Desalter Expansion, in clearing out the contingencies and providing relief for all of the parties on a go forward basis. Counsel Slater stated the Peace II Agreement came with a series of releases that are pertinent to the Agricultural Pool. During the Peace Agreement and Peace II Agreement process there was some give and take about residual liability associated with salt management. There are sections in those documents that have a blanket release to assure all the parties that we are done, and there is nothing further that is required, provided that the court buys into, approves, and directs Watermaster to proceed with the expansion. Counsel Slater stated there was an SEIR associated with the expansion project. This followed after the original mitigation program that as developed in connection with the original round of desalting that's been carried forward. Counsel Slater stated the mitigation program was presented to Watermaster when the process was gone through last fall. Those are the items wrapped up in the request to the court. Counsel Slater stated counsel has been working with the interested parties who are participating in the CDA to rough-out declarations; advanced declarations and testimony will be gone over thoroughly prior to the court date. Counsel Slater stated great progress is being made and Mr. Alvarez and Mark Wildermuth have done a great job interfacing with the Regional Board. Counsel Slater stated it is also expected to have a supportive declaration out of the Regional Board on the primary issue of whether Hydraulic Control has been achieved. Counsel Slater stated the subject of Master Planning does not go away as all of the benefits that are contained within the Hydraulic Control

package are dependent on having success on the Recharge Master Plan. Counsel Slater stated the filing dates have been met thus far and there is a big one coming in December. The 85/15 Rule discussion, among other things is representative of an important issue regarding replenishment. Counsel Slater stated that is what is imbedded in the now October 28th date and it should go well. A discussion regarding the court approving or not approving that Watermaster is "done" ensued. Chair Feenstra inquired if the Regional Board could influence the Judge. Counsel Slater stated that is something that Watermaster does worry about; however, we are anticipating an understanding with them in advance, in writing, which will be presented as part of the record. Ms. Novak stated she has spent a great deal of time this morning reviewing how we got to where we are today. Ms. Novak stated the Agricultural Pool had a lot of questions last month about what this resolution was, and the impact it would have on Agricultural Pool members, etc. and noted she does not see a staff report here today addressing those questions and concerns. Ms. Novak stated she has seen handouts on the back table that were not part of the meeting packages and now she is trying to locate a map that shows which eight wells, within the Agricultural Pool, fall within this Mitigation Zone. Ms. Novak stated it is her understanding that these people, should they have a problem with their water, that there is a procedure now that they been committed to by the court that they must go through the following steps to get any sort of relief from the CDA. Ms. Novak stated this was not before us last month and the mitigation plan itself is not part of her records on what things were voted on previously. Ms. Novak noted that this committee has stated month after month, including last month, that those eight well owners have contacted and given ample opportunities to understand what is going on as opposed to getting an email stating there is a meeting at Watermaster, while not knowing that their legal rights are being impacted. Ms. Novak noted Watermaster counsel and the Agricultural Pool's previous general counsel had several conversations on the impact on the CIM wells, but because the CIM is out of the Mitigation Zone, they are not bound to these procedures like everybody else is. Ms. Novak stated before she explains to her client exactly what is going on it would be nice to have some sort of summary as to how this affects the Agricultural Pool. Ms. Novak offered further comment regarding this matter. Counsel Slater stated there were at least six open public meetings between June of 2010 and October 2010, replete with staff reports and back up information. Counsel Slater stated there was an open environmental review process that was conducted by the CDA and not by Watermaster; However, Watermaster did comment into that process but that SEIR was not approved by Watermaster – it was approved by the CDA. Counsel Slater stated the proposed mitigation plan, adopted by the CDA, was an extension of the earlier plan which was approved by the CDA. Counsel Slater stated there is a plan in place, and it was intended to be expanded; the impacts were analyzed in the SEIR, and were later presented to Watermaster as an approved/certified environmental review. Counsel Slater stated Wildermuth Environmental was instrumental in examining the potential impact zones. The reason we are here is there is a hearing set up for October 28th in which there will be an order of the court, as opposed to a Watermaster unanimous resolution to approve it. There will be an opportunity to answer questions in the next six weeks to get to a position where the testimony is understood and what questions are going to be addressed. A lengthy discussion regarding Ms. Novak's and Counsel Slater's comments ensued. Ms. Novak noted it is important for this Committee to understand how we got to where we are at now, and most importantly right now is regarding those eight well owners. Counsel Slater stated it is his representation to this committee that, to the best of his knowledge, there was an effort to reach out and contact each of the eight well owners and that was being done in the time frame leading up to the adoption of the resolution. Counsel Slater stated there were inquires made by the CDA group and there was an ongoing process that they had gone through the first time around, and he believes there was some sort of an advisory committee meeting with this regard. Counsel Slater stated it is his belief that an effort was made to contact each of the individuals; although, he was not responsible for implementing that and cannot verify that it was done. Ms. Novak stated before those eight wells run dry and those well owners then turn to the people of this board who represent them as to what they can do, she wants to be sure they have some knowledge of what is going on. Mr. Koopman inquired of Geoffrey Vanden Heuvel about his

experience when his wells ran dry. Mr. Koopman inquired into the plans to assist people when their wells run dry and offered further comment on this matter. Counsel Slater stated he relies on confident and professional people to explain what the procedures are and how they plan on handling situations like this. However, it is his understanding that the CDA has an existing Emergency Response Plan. The EIR looked at that plan and said, it is a good plan and we are going to expand that plan; that plan is going to be presented at the hearing. Counsel Slater stated since Watermaster has already passed a resolution on the basis of a proposed plan, you may want to file your own declaration to discuss the importance of having an effective Emergency Response Plan. Counsel Slater stated those concerns can be expressed in the form of a declaration and can become part of the record. This committee controls its own declaration as to how it will be submitted into evidence. Counsel Slater offered further comment on the Emergency Response Plan. Mr. Koopman inquired of Geoffrey Vanden Heuvel, since this was approved by Watermaster, if he thinks the procedures that are in place are sufficient to protect the wells of those people who may be impacted. Mr. Geoffrey Vanden Heuvel, stated yes, and explained in detail why he felt that way, and included history on when he was impacted the last time the Desalter I came on line. Mr. Geoffrey Vanden Heuvel stated he feels quite confident that we will be able to get this thing done and that the mitigation plan will work adequately. Chair Feenstra offered closing comments on this matter. A discussion regarding this matter ensued.

2. Restated Judgment Process

Counsel Slater stated the first part of the restated Judgment process was to produce a technically accurate form of the Judgment, inclusive of all orders and amendments, which has been on the Watermaster ftp site and has been circulated. Staff, counsel, and the parties now feel this is the completed and accurate form of the Judgment. Counsel Slater stated this portion was the scrivener's exercise and a secondary portion of the process has now begun. Counsel Slater stated that actually starts with counsel preparing a fully annotated Judgment, which takes the Judgment itself and then cross-references the Rules & Regulations, Optimum Basin Management Plan, and the Pooling Plans so that when any person or party opens a page, they will see not only the text in the Judgment but the related cross-references to that text in other documents. Counsel Slater stated it is anticipated to have something out on this regard within the next 30 days, which will then be sent out to smaller committees that will be comprised of stakeholders, lawyers, and their principals to review the document. Counsel Slater stated that consistent with the earlier direction from the stakeholders, staff and counsel intends on this not being a negotiating exercise, but one that is more scholarly in its effort to pull together all the resources and put them in one place so that the Judge has a quick reference book with everything in it. Chair Feenstra stated he speaks with Mr. Dan McKinney on a weekly basis and Dan stays in contact with Counsel Slater, and noted he is comfortable with this matter.

B. AGRICULTURAL POOL LEGAL COUNSEL UPDATE

Chair Feenstra noted there will be a closed session after the general meeting has concluded.

C. CEO/STAFF REPORT

1. Recharge Update

Mr. Alvarez stated, as of this past weekend, there has been approximately 25,000-26,000 acre-feet of water spread in the Chino Basin. Mr. Alvarez stated the MWD replenishment water project may end sooner than originally anticipated. MWD, through the end of August, had delivered 166,000 acre-feet of the 225,000 acre-feet, which means that amount will be exhausted at the end of September or middle of October. Watermaster was planning on purchasing 50,000 acre-feet of that 225,000 acre-feet of water. However, it appears that amount will only be 30,000 to 34,000 acre-feet of total replenishment in the basin. Mr. Alvarez stated that final number will be clearer toward the end of the month. A discussion regarding losses and the replenishment water ensued.

2. GE Injection Wells

Mr. Alvarez stated the GE Injection Wells has been an item that previously was before the Watermaster parties but it had been put in abeyance. Mr. Alvarez stated General Electric and the City of Ontario have now worked out an arrangement where they are all satisfied as to how to operate that facility. Mr. Alvarez stated staff will be coming back through the Watermaster process for approval of a plan in November.

3. 85/15 Rule

Mr. Alvarez stated this item goes back to the Recharge Master Plan and the implementation of the Plan amongst all of the commitments that Watermaster has. Mr. Alvarez stated in looking at some of what the court expectations are, staff will be putting together a committee to provide oversight and direction on that. The committee will consist of Inland Empire Utilities Agency, Chino Basin Water Conservation District, San Bernardino County Flood Control District, and three representatives from the Appropriate Pool to make a working committee to move forward with that regard. A lengthy discussion regarding this matter ensued.

IV. INFORMATION

1. Cash Disbursements for August 2011

No comment was made.

2. Newspaper Articles

No comment was made.

V. POOL MEMBER COMMENTS

Chair Feenstra stated he had an opportunity to meet with staff from the City of Ontario and those discussions will be discussed during the closed session.

Mr. Vanden Heuvel inquired about items that were moved from the agenda last month and if those items were going to be discussed during closed session. Mr. Vanden Heuvel stated one of the items was brought up by Mr. Durrington with regard to some pumpers pumping agricultural water but are not agricultural users. If this is not going to be discussed at this meeting then maybe it should be agendaized for next month. Chair Feenstra stated he had a scheduled meeting with Mr. El-Amamy and Mr. Burton after the last month's meeting and that meeting did not take place because of timing. However, he believes they have answers to those questions and that will be addressed next month. Mr. Vanden Heuvel stated there was another item that he believed Mr. Joswiak was going to look into with regard to unidentified expenditure from the Agricultural Pool fund and he noted he does not know if any investigation has taken place on this request. Chair Feenstra stated he is anxious as the rest of this committee to see where this \$16,000 investigation takes us. Mr. Alvarez stated this will be presented next month. Mr. Pierson thanked Mr. Alvarez and Watermaster staff for that 85/15 Rule presentation; it was excellent. Mr. Pierson thanked Mr. Mura for coming and presenting his views on this matter.

VI. OTHER BUSINESS

No comment was made.

The regular open Agricultural Pool meeting was convened to hold its confidential session at 2:46 p.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 concluded at 3:31 p.m.

No action was reported.

VIII. FUTURE MEETINGS

Thursday, September 8, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, September 8, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, September 8, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, September 15, 2011	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
Thursday, September 15, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, September 15, 2011	10:30 a.m.	Land Subsidence Committee Meeting @ CBWM
Thursday, September 22, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
* Friday, October 28, 2011	10:30 a.m.	Watermaster Court Hearing @ Chino Court

*** Note:** The court hearing has changed from September 30, 2011 to **October 28, 2011**

Chair Feenstra dismissed the Agricultural Pool Committee meeting at 3:32 p.m.

Secretary: _____

Minutes Approved: October 13, 2011