

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING

November 10, 2011

The Agricultural Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on November 10, 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
Glen Durrington	Crops
Jeff Pierson	Crops

Watermaster Board Member Present

Geoffrey Vanden Heuvel	Dairy
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Watermaster Staff Present

Danielle Maurizio	Senior Engineer/Interim CEO
Joe Joswiak	Chief Financial Officer
Gerald Greene	Senior Environmental Engineer
Sherri Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
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Others Present Who Signed In

Tracy Egoscue	Paul Hastings
Curtis Paxton	Chino Desalter Authority
Dave Crosley	City of Chino
Scott Burton	City of Ontario
Sheri Rojo	Fontana Water Company
Richard Rees	State of California, Dept. of Justice, CIM
Paul Deutsch	Geomatrix
Bob Gluck	City of Ontario
Gil Aldaco	City of Chino

Chair Feenstra called the Agricultural Pool meeting to order at 1:06 p.m.

AGENDA - ADDITIONS/REORDER

There were no additions or reorders mad to the agenda.

Chair Feenstra stated Ms. Maurizio is now acting as the Watermaster interim Chief Executive Officer. Chair Feenstra noted Mr. Alvarez is on administrative leave and that this will be discussed further during the closed session today.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Agricultural Pool Meeting held October 13, 2011

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of September 2011
2. Watermaster VISA Check Detail for the month of September 2011
3. Combining Schedule for the Period July 1, 2011 through September 30, 2011
4. Treasurer's Report of Financial Affairs for the Period September 1, 2011 through September 30, 2011
5. Budget vs. Actual July 2011 through September 30, 2011

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

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

II. BUSINESS ITEMS

A. 85/15 RULE POLICY (For Information Only)

Ms. Maurizio stated the Non-Agricultural Pool deferred this item at their Pool meeting this morning. Ms. Maurizio stated the Appropriative Pool discussed this item and they took action on it; the policy was approved and one minor language change was made to the policy by removing three words. Ms. Maurizio stated the Appropriative Pool indicated they wanted the policy to come back in twelve months to make any necessary changes. Ms. Maurizio stated with the approval of the policy this allows Watermaster to proceed with the Assessment Package. Ms. Maurizio stated the 85/15 Rule and Policy essentially only applies to the Appropriative Pool for their overproduction.

Note: Motion was provided after the added confidential session and not at the time of presentation by Ms. Maurizio on the agenda.

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

Moved to defer the 85/15 Rule Policy, as presented

B. CHINO BASIN WATERMASTER RESERVES

Ms. Maurizio stated both the Non-Agricultural Pool and the Appropriative Pool deferred this item at their Pool meetings this morning.

Note: Motion was provided after the added confidential session and not at the time of presentation by Ms. Maurizio on the agenda.

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

Moved to defer the Chino Basin Watermaster Reserves item, as presented

C. TURNER BASIN IMPROVEMENT PROJECT UPDATE

Ms. Maurizio stated both the Non-Agricultural Pool and the Appropriative Pool deferred this item at their Pool meetings this morning.

Note: Motion was provided after the added confidential session and not at the time of presentation by Ms. Maurizio on the agenda.

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

Moved to defer the Turner Basin Improvement Project Update, as presented

D. PREEMPTIVE REPLENISHMENT AGREEMENTS

Ms. Maurizio stated the Non-Agricultural Pool deferred this item at their Pool meeting this morning. Ms. Maurizio stated the Appropriative Pool discussed this item in closed session and they took action on it. Ms. Maurizio stated the action taken by the Appropriative Pool was the Appropriative Pool requested that 1) John Schatz work with Watermaster's legal counsel concerning the development of a uniform Storage Agreement for Inland Empire Utilities Agency, and also requested that 2) John Schatz work with Watermaster to facilitate the development of Preemptive Replenishment Agreements without harm or prejudice to the City of Chino or the

Jurupa Community Services District Agreements. Mr. Koopman stated the water is in the ground and inquired if a check from Watermaster is in the mail to Inland Empire Utilities Agency (IEUA). Ms. Maurizio stated a partial payment was made. Ms. Maurizio offered the history on the agreements with Fontana Water Company and Niagara Bottling Company for a portion of the replenishment water purchased; these agreements have been paid for. Mr. Joswiak stated Watermaster also received a check from the City of Chino. Mr. Koopman offered comment on this matter and a lengthy discussion regarding the payment of IEUA ensued. Chair Feenstra stated there was a special meeting held recently with this regard and a report from Mr. Pierson, who attend that meeting, will be given during closed door. Mr. Geoffrey Vanden Heuvel stated he wanted to address the Agricultural Pool on the matter of the preemptive replenishment process and payment issues, and on what the Appropriative Pool has instructed their legal counsel to do. Mr. Geoffrey Vanden Heuvel stated this item came before the Watermaster Board on August 25, 2011 with a less than mandate recommendation from the Advisory Committee to do Storage Agreements. Mr. Geoffrey Vanden Heuvel stated at that meeting the Board instructed Watermaster staff to do Preemptive Replenishment Agreements, not Storage Agreements; that decision was made after Counsel Slater researched the issue and provided information to the Board. Mr. Geoffrey Vanden Heuvel discussed the "notice" process that is outlined in the Judgment in detail. Mr. Geoffrey Vanden Heuvel offered a further detailed account on the preemptive replenishment payment process, including the issue with Monte Vista Water District's and Cucamonga Valley Water District's concerns over Watermaster not acting appropriately during this process. Mr. Geoffrey Vanden Heuvel stated due to this matter a special Watermaster Board meeting was scheduled for November 28, 2011 regarding the Preemptive Replenishment Agreements because of the "notice" period; however, the Pools did meet today and the Appropriative Pool took action. Mr. Geoffrey Vanden Heuvel stated that motion will be provided to the Advisory Committee next week and at that time that committee can either approve of the recommendation or pass it to go to the Watermaster Board mandate vote to do something different than it did on August 25, 2011. Mr. Geoffrey Vanden Heuvel offered final comment on paying the IEUA bill. Chair Feenstra asked for any further comment and stated this Committee is able to take action on any item that is on their agenda whether it was deferred or voted on by another Pool. Mr. Koopman discussed the 80% mandate rule and offered comment on the payment situation. A lengthy discussion regarding this matter ensued. Chair Feenstra stated the Watermaster Board is going to have to get direction on how this matter is to be addressed by this Committee. Mr. Koopman stated IEUA needs a letter or something to state they are going to be paid for that water including any and all costs associated with that purchase. A lengthy discussion regarding direction to be provided to Mr. Vanden Heuvel and Mr. Hofer at the next Board meeting ensued. Mr. Pierson stated it appears we are in a procedural issue that this Committee does not have any control over and offered further comment on this matter regarding the pending vote at the Advisory Committee meeting next week. Counsel Fife stated the options that will be available at the Advisory Committee for the Agricultural Pool are: 1) To do nothing – if the Advisory Committee does not act next week they will have received notice, there will be no alternative recommendation, and then the Watermaster Board then intends to stick with its August 25, 2011 action to execute the Preemptive Replenishment Agreement that has been approved by the Board, 2) Ratifying the August 25, 2011 action of the Board – same result, that the Board will instruct staff to execute that agreement that has already been prepared, and 3) The Advisory Committee, with an 80% mandate, instructs the Board to adopt a uniform Storage Agreement; this is what the Appropriative Pool recommended today. Counsel Fife stated these are the options now and this committee can instruct your representatives to take one of those three actions that have known outcomes. Ms. Egoscue stated there is nothing in front of this committee in writing regarding this matter and it is being given only verbally. Ms. Egoscue offered further comment on the condition it puts on this committee to make this sort of important decision based upon items going back and forth through committees with no analysis or recommendation. Ms. Egoscue asked for clarification on exactly which item is being discussed presently. Counsel Fife stated it is Business Item D that is being discussed. Counsel Fife stated that, as Mr. Vanden Heuvel has stated, unless the Board is instructed to do otherwise, it intends to move forward with its August 25, 2011 action. A discussion regarding this matter and how to instruct its Advisory Committee representative ensued. Mr. Koopman inquired about

the ownership of the water and invoicing. Counsel Fife stated the direction that was thought to be had in August was to enter into the Preemptive Replenishment Agreement, and that is what has been moving forward since that time, and only during the October Board meeting in light of the letters received from the parties, did things change.

Chair Feenstra called for a closed door session immediately.

The regular open Agricultural Pool meeting was convened to hold an added confidential session at 1:34 p.m.

The added confidential session concluded at 2:14 p.m.

Chair Feenstra stated he appreciates the parties and/or staff present for the time needed for the necessary added special confidential session. Chair Feenstra stated this Committee will now go through Business Items A through E for comment and/or motion.

Note: Motion was provided after the added confidential session and not at the time of presentation by Ms. Maurizio and/or legal counsel on the agenda.

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

Moved to approve staff's recommendation in the meeting package for the Preemptive Replenishment Agreements to the Advisory Committee, as presented

E. WEST VENTURE DEVELOPMENT WATER RIGHTS (For Information Only)

Ms. Maurizio stated both the Non-Agricultural Pool and the Appropriative Pool deferred this item at their Pool meetings this morning.

Note: Motion was provided after the added confidential session and not at the time of presentation by Ms. Maurizio on the agenda.

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

Moved to defer the West Venture Development Water Rights item, as presented

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. October 28 Hearing

Counsel Fife stated a lengthy hearing took place on October 28, 2011 with Judge Reichert. Counsel offered comment on the details of the hearing. Counsel Fife noted he felt because of the questions and presentations given at this hearing made it a very good educational hearing for the Judge. Counsel Fife stated Judge Reichert also took appearances from everyone in the courtroom. Counsel Fife offered final comments on the recent hearing. Chair Feenstra thanked Mr. Geoffrey Vanden Heuvel, Ms. Jennifer Novak, and Mr. Pete Hall for attending the hearing, as well as the Agricultural Pool legal counsel, Ms. Tracy Egoscue, who was able to make some comments at the hearing. Chair Feenstra offered comment on the hearing. Counsel Fife stated there was an item that came up regarding the interpretation of the CDA Resolution that had not been discussed before which especially pertained to the Agricultural Pool. Counsel Fife stated one of the things the CDA Resolution does is create an administrative process for Agricultural Pool members who may be affected by the operations of the Desalter wells. Counsel Fife stated there are forms to be filled out, and there is a process that needs to be gone through with the CDA in order to make a claim, etc. Counsel Fife stated the question the Judge raised was that at the end of that process, as described in the Resolution, the CDA board makes a determination whether the claim is valid or not and whether the CDA is going to pay or not. The Judge inquired if the CDA was the judge, jury, and executioner – and noted if that was the case, then he would be very uncomfortable with the situation. Counsel Fife stated the Judge requested clarification and that was not the case, and that any party that was dissatisfied

with the decision of the CDA would then have all their existing legal rights to be able to challenge the determination that the CDA made. Counsel Fife stated his interpretation of the Resolution was that the parties did not forfeit their legal rights, and that the approval of the Resolution did not take away those legal rights. Counsel Fife stated the Judge expressed that was his understanding too; however, there was no legal representation at the hearing. Counsel Fife stated he indicated to the Judge that this would be a good issue to shore up, and committed to go back communicate with the CDA counsel, Agricultural Pool counsel, and come back with something so that there is a clear record and there is no ambiguity if there is a problem. Counsel Fife stated he has contacted those counselors and received clarification that the private well owners retain all their rights to challenges on CDA decisions. Counsel Fife stated some sort of stipulation or document will need to be provided to the court on this matter to ensure there is a clear record. A discussion regarding this matter and the hearing ensued.

2. Restated Judgment

Counsel Fife stated the Restated Judgment was presented to Judge Reichert at the October 28, 2011 hearing as a "receive and file" action. Counsel Fife noted just prior to the hearing the Non-Agricultural Pool asked that a disclaimer be added that it was just a receive and file Restated Judgment so that the operative legal document would remain the 1978 Judgment, plus the amendments made throughout the course of time. Counsel Fife stated Judge Reichert indicated that was not how he wanted it done, he wants the Restated Judgment to be the official document. Judge Reichert asked that Watermaster come back to his court with a motion that presents it as the operative legal document; the 1978 Judgment would be vacated and the 2011 Judgment would become the official Judgment. Counsel Fife offered comment on this matter and noted the only real difference would be a reference to page numbers. Counsel Fife stated that will be then framed as a motion and then it will be brought through the Watermaster process. A discussion regarding this item ensued.

3. December 17 Recharge Master Plan Filing

Counsel Fife stated, under the October, 2010 court order which approved the Recharge Master Plan, the court ordered an update to be provided by December 17, 2011 which is six months following the due date for the Urban Water Management Plan (UWMP). Counsel Fife stated in the 2010 filing Watermaster indicated that when the UWMP came out it could change the Recharge Master Plan so the court requested an update six months after that happened. Counsel Fife stated, given the events of the last week, it is going to be difficult for Watermaster to get to that filing in a timely way, and it is expected to obtain authorization from the Watermaster Board for some form of continuance of that filing.

B. AGRICULTURAL POOL LEGAL COUNSEL UPDATE

1. Chair Feenstra inquired to his legal counsel if any of her items will be going to closed session today. Ms. Egoscue stated yes, and she also has a brief report to give. Ms. Egoscue stated there was a concern after the hearing; the Judge stated that the order was not clear about an appeal process. Ms. Egoscue stated she has been working very cooperatively trying to come up with another way to approach the Judge and make the ultimate outcome of any sort of appeal process clear. Ms. Egoscue thanked the Watermaster counsel for his assistance in this matter; this should be done in a short time frame.

C. WATERMASTER ENGINEERING REPORT

1. Groundwater Model Update

Mr. Wildermuth stated one of the items required by the court order from last October, 2010 to be included in this update to the court was an analysis of projected groundwater production and replenishment. Mr. Wildermuth stated in July Wildermuth Environmental started collecting UWMPs from all of the parties that are required to produce them. Mr. Wildermuth gave the Groundwater Production Projection 2011 Update: Preliminary

Results presentation in detail. Mr. Wildermuth reviewed the Projected Production in the Chino Basin Modified 2010 UWMPs and Efficient Market Assumptions chart in detail. A lengthy discussion regarding Mr. Wildermuth's presentation and the availability of MWD replenishment water ensued.

2. General Electric/City of Ontario Material Physical Injury Analysis

Mr. Wildermuth stated there is a draft report almost completed on the Material Physical Injury Analysis for the General Electric Injection Project. Mr. Wildermuth stated that report will be submitted to Watermaster staff for review shortly, and then it will be brought through the entire Watermaster process in December.

D. CEO/STAFF REPORT (Note: these items were taken out of order)

1. RWQCB Basin Plan Amendment

Ms. Maurizio stated this item has been discussed at numerous meetings. Ms. Maurizio stated the concept for this item is that Watermaster staff and engineering consultants have been asking the Regional Water Quality Control Board (RWQCB) to amend the Basin Plan so that Watermaster is not responsible to perform so much surface water sampling on the Santa Ana River. Ms. Maurizio stated the cost for that sampling is approximately \$200,000 per year and this reduction would save Watermaster approximately \$150,000 a year. Ms. Maurizio reviewed the sampling which is being done presently and what is being asked for in the reduction in detail. Ms. Maurizio stated it was anticipated the RWQCB would have this item on their December calendar; however, it is understood it has been now placed on the January, 2012 agenda for consideration.

Added: 2. Recharge Update

Ms. Maurizio stated the most recent Recharge spreadsheet is available on the back table for review. Ms. Maurizio reviewed the recharge numbers in detail.

Added: 3. Meeting Date Updates

Ms. Maurizio reviewed the meeting date changes due to the upcoming Thanksgiving and Christmas holidays. Ms. Maurizio stated a Land Subsidence Committee meeting has been added to the upcoming meeting schedule for Wednesday, November 16, 2011 at 1:00 p.m. here at Watermaster.

Added: 4. Agricultural Pool Invoice Issue

Chair Feenstra stated this question has already been asked, the Committee members found in the Treasurer's Reports several months ago an item regarding approximately \$16,000.00. Mr. Joswiak stated this goes back to two invoices and has to do with the Middle Santa Ana River Pathogen TMDL Task Force. Mr. Joswiak stated the first invoice was dated February 20, 2008 for \$3,031.50, and the second invoice was dated April 4, 2008 for \$13,474.00, which combined is the \$16,506.00 total. Mr. Joswiak stated after Watermaster had booked those two invoices, the \$3,031.50 was removed from the Agricultural Pool's fund, leaving a balance of \$13,474.00 which was deducted from the Agricultural Pool's balance.

Added: 5. Samples

Ms. Maurizio stated she has the results of the split samples that Watermaster has been doing with the ABGL Group for the plume on a map that can be shown if this committee wishes to see them. Chair Feenstra stated those results will be discussed in closed session. Ms. Maurizio stated she would keep the results up on the screen for that.

IV. INFORMATION

1. Cash Disbursements for October 2011

No comment was made.

- 2. Newspaper Articles
No comment was made.

V. POOL MEMBER COMMENTS

Chair Feenstra inquired if during these times would Watermaster be fully staffed during the holidays. Ms. Maurizio stated historically Watermaster office shuts down between Christmas and New Years which estimates to be about one week of time. Chair Feenstra inquired about pay and Ms. Maurizio stated it is not paid other than the regular holidays, and staff supplements with either their vacation or compensation time to pay for that time taken off. Chair Feenstra thanked Ms. Maurizio for once again taking on other responsibilities.

Chair Feenstra offered comment on the last three samples needed for the project that the Agricultural Pool and Watermaster was working on, and stated that he is still working on that.

Chair Feenstra offered comment on the Riverside Stormwater Channel well that he has been working with Watermaster staff on. Chair Feenstra stated it will cost approximately \$3,000.00 to lift that well up to get in it; this is the well that has been of great concern. A lengthy discussion regarding this well and its contents ensued.

Mr. Durrington asked that Watermaster staff put on the agendas from now on an item titled: Old Business.

VI. OTHER BUSINESS

No comment was made.

The regular open Agricultural Pool meeting was convened to hold its confidential session at 3:00 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 3:24 p.m.

Ms. Egoscue reported the confidential session action as follows:

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

Moved to authorized miscellaneous expenses up to \$500 dollars per year, per each individual member to be reimbursed from the Agricultural Pool's special account Pool fund, as presented

VIII. FUTURE MEETINGS

Thursday, November 10, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, November 10, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, November 10, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, November 17, 2011	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, November 17, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
* Thursday, November 17, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Monday, November 28, 2011	1:30 p.m.	Special Watermaster Board Meeting @ CBWM
Thursday, December 8, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, December 8, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, December 8, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, December 15, 2011	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, December 15, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
** Thursday, December 15, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM

* **Note:** Watermaster Board meeting date change due to the Thanksgiving holiday

** **Note:** Watermaster Board meeting date change due to the Christmas holiday

Ms. Egoscue dismissed the Agricultural Pool Committee meeting at 3:26 p.m.

Secretary: _____

Minutes Approved: December 8, 2011