

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING

June 14, 2012

The Agricultural Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on June 14, 2012 at 1:30 p.m.

Agricultural Pool Members Present

Bob Feenstra, Chair	Dairy
John Huitsing	Dairy
Gene Koopman	Milk Producers Council
Rob Vanden Heuvel	Milk Producers Council
Jeff Pierson	Crops
Glen Durrington	Crops
Pete Hall	State of California, CIM

Watermaster Board Members Present

Paul Hofer	Crops
Bob Kuhn	West Valley Water District

Watermaster Staff Present

Ken Jeske	Interim CEO
Danielle Maurizio	Senior Engineer
Joe Joswiak	Chief Financial Officer
Sherri Molino	Recording Secretary

Watermaster Consultants Present

Brad Herrema	Brownstein, Hyatt, Farber & Schreck
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Others Present

Dan McKinney	Johnson & McKinney PC
Dave Crosley	City of Chino
Rick Reese	Amec
Bob Gluck	City of Ontario
Marsha Westropp	Orange County Water District
Brian Dickenson	Chino Desalter Authority

Chair Feenstra called the Agricultural Pool meeting to order at 1:34 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 May 10, 2012

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of April 2012
2. Watermaster VISA Check Detail for the month of April 2012
3. Combining Schedule for the Period July 1, 2011 through April 30, 2012
4. Treasurer's Report of Financial Affairs for the Period April 1, 2012 through April 30, 2012
5. Budget vs. Actual Report for the Period July 1, 2011 through April 30, 2012

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – The purchase of 1,000,000 acre-feet of water from Santa Ana River Water Company (SARWC) to Jurupa Community Services District (JCSD). This purchase is made first from SARWC's Annual Production Right, with any additional from storage. Date of Application: May 29, 2012
2. **Consider Approval for Notice of Sale or Transfer** – The lease and/or purchase of 782,000 acre-feet of water from San Antonio Water Company to the City of Ontario. This lease is made first from San Antonio's net under-production in Fiscal Year 2011-12, with any remainder to be recaptured from storage. Date of Application: June 1, 2012

Mr. Pierson stated in the minutes there is an item after the CEO report called added comments and he noted he wants to discuss those added comments under old business.

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

Moved to approve Consent Calendar items A through C, with one noted change to the minutes, as presented

II. BUSINESS ITEMS**A. MATERIAL PHYSICAL INJURY ANALYSIS**

Mr. Jeske stated this item is for a material physical injury analysis on an application for a storage agreement submitted by California Steel Industries (CSI.) Mr. Jeske stated Watermaster has processed several of these over the past few months. For all of these applications that have been submitted however, this one is different because this one contains what to do with the storm water and how to categorize that and apply that water. Mr. Jeske stated this item is for the Material Physical Injury analysis only; not how to categorize it, not granting the storage, not granting the recharge, and that will still all come forward. Mr. Jeske stated at the Appropriative Pool meeting this morning the City of Ontario raised an issue regarding water quality because the neighboring site is the historic Kaiser site and there are a number of clean up issues and orders, and approved clean up plans through the State and Department of Toxic Substances on that. Mr. Jeske stated also this facility was developed and constructed by CSI as a requirement of the Regional Water Quality Control Board (RWQCB) to meet their storm water runoff obligations, which is also permitted by the RWQCB. Mr. Jeske stated Wildermuth Environmental (WEI) staff relied on the water quality information from those two organizations, and Watermaster staff did not do any independent work on it other than contacting the RWQCB. Mr. Jeske stated the RWQCB conditions and permits deal with the surface water runoff and they indicated that recharge coming from there, they believed, was minor enough and de minimis enough that it would not impact the neighboring site. Mr. Jeske stated with that information, this analysis was prepared and it is being brought forward as a receive and file recommendation. Mr. Jeske stated both the other Pools moved to set this aside until we complete the work on storage and storm water, develop policies, and then bring it forward. Mr. Jeske stated this would also give the City of Ontario time to make those necessary comments they want to make with the RWQCB. Mr. Jeske stated that is what the other two Pools did and it would be appropriate for this Pool to also make that type of motion. Mr. Koopman asked if there was a timeline put on that motion. Mr. Jeske stated no, they only inquired about the schedule, and our schedule is to get to that point by this December. Mr. Koopman stated this item is just strictly for the MPI. Mr. Jeske stated that was correct. A discussion regarding this matter ensued. Mr. Pierson asked if this was unanimous vote by both Pools. Mr. Jeske stated yes, it was, and explained why CSI wanted it this done this month however, that it could be held for over without any consequences. Mr. Jeske stated again staff needs to work through the policies and actions by December 2012. Chair Feenstra called for a motion. Mr. Pierson stated he would make a motion similar to the one the other Pools made until such time there are policies set in place for the Recharge Master Plan. Mr. Durrington inquired what the difference is between that motion and a receive and file motion. Mr. Jeske explained the difference in detail. Mr. Pierson stated he would like to know what the City of Ontario is doing and what their concerns are. Mr. Koopman stated because this is part of the agreement with the RWQCB; has this facility been in place for a while. Mr. Jeske stated he believes this facility was developed approximately six years ago. Mr. Koopman

inquired if this recharge was good enough to take all water through there. Mr. Jeske stated no. Mr. Koopman inquired where it goes from there. Mr. Jeske stated Mulberry Channel and on down to Riverside County and the River. A discussion regarding this matter ensued.

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

Moved to defer this item as the Appropriative Pool and Non-Agricultural Pools have done and to allow time for discussions regarding policies takes place in conjunction with the Recharge Master Plan Update, as presented

B. INTERVENTION INTO THE OVERLYING NON-AGRICULTURAL POOL

Mr. Jeske stated Business items B and C are on the same topic, and this is the topic of the Non-Agricultural rights that were held originally by Red Star Fertilizer, successor being Anaheim Citrus, successor being West Venture Development Company (WVDC), which subdivided the properties and sold them off in the early 90's. Mr. Jeske stated in 1992 WVDC wrote a letter to Watermaster to abandon their rights, indicating they should divide them up against remaining Non-Agricultural Pool members but first contact all the property owners and follow the rights of the property owners, and then file the final disposition with the court. Mr. Jeske stated that was the motion done by the Non-Agricultural Pool when this was brought forward previously. Mr. Jeske stated as we went to the Appropriative Pool they wanted to look at this further, and staff was directed to find out what they could about the property owners. Mr. Jeske stated to do that work staff needed to review the subdivision map which was all recorded through the City of Chino. Mr. Jeske stated the City of Chino was already looking at this. Mr. Jeske stated the City of Chino found that through the subdivision the City of Chino was dedicated 22% of the original property. Mr. Jeske stated the City of Chino believes they have the right to intervene, as a property holder of some of the original Overlying Non-Agricultural property, and they contend they should have some of those rights. Mr. Pierson inquired if the water rights were part of the dedication. Mr. Jeske stated that documentation is unclear at the City Chino at this item; however, it was clear that the City of Chino was to provide water service to the property. A lengthy discussion regarding this item ensued. Mr. Jeske stated the Appropriative Pool and Non-Agricultural Pool took a motion today to continue this item for 60 days, during that time they want both the Pools counsel, Watermaster counsel, and staff to get together during that time and discuss protocol and issues related to parties belonging to multiple Pools. Mr. Koopman offered comment the water right issue. Mr. Jeske stated assessments have to be adjusted to account for the 15 acre-feet that nobody is using, so they wanted a resolution to it and asked that it be brought up. Mr. Jeske stated in doing the record search Watermaster has found it was never acted on and WVDC sent a letter in 1994 which indicated that they wanted no more part of Watermaster and would pay no further assessments, so they have not been credited any water since then but it has never been distributed anywhere else. Mr. Pierson inquired if WVDC was the final owner of the rights if they were not transferred to the individual lots that were developed. Mr. Jeske stated not according to their letter, it is very unclear; staff could find no documents that did that and there was no intervention by all of those individuals. Mr. Jeske stated in order to acquire water rights a party has to intervene into that Pool and that is the first step which the City of Chino is doing. Mr. Jeske stated Watermaster's obligation is to bring that petition forward for discussion and then the Pools, Advisory Committee, and ultimately the Watermaster Board determine the recommendation to the court. Mr. Jeske stated this Pool does not need to take the same action as the other two Pools. Mr. Pierson inquired about transfer of the rights and if a title search was done. Mr. Jeske we did not do a title search on each individual lot and he does not know if the City of Chino did that search either. Mr. Crosley stated, to the best of his knowledge, the City of Chino did not do a formal title search; however, there is the opinion of the city attorney opinion provided in the meeting packet. A lengthy discussion regarding this matter ensued. Mr. Jeske stated there are multiple actions and multiple theories on this matter. Mr. Jeske stated what he said to the other Pools is this will likely never happen again. Mr. Hall inquired if any other parties are presently in multiple Pools. Mr. Jeske stated yes, there are others. Mr. Durrington inquired if WVDC can withdraw their action. Mr. McKinney stated when this comes back this Pool needs an answer to a few questions. Mr. McKinney stated the first question is, is the City of Chino claiming just the overlying rights on the streets, curbs, gutters,

and parkways where they are going to use the water or are they going to move it to other municipal uses, and this policy that Watermaster is creating needs to address that. Mr. Jeske stated staff will ask the City of Chino to let us know that. Mr. Jeske offered further comment on this matter. Mr. Jeske gave an example of another company who did this and they used their rights on other properties for Non-Agricultural rights and then provided Watermaster a list of every meter and the amount of water used through every meter and they tied that use to the Non-Agricultural use separate from the appropriate use that they, are providing through meters to customers. Mr. Vanden Heuvel stated there is enough support here to hold this item for 60 days while having the chairman and/or legal counsel keep their eyes on this matter. Mr. Pierson stated he has no objection for City of Chino intervening into the Non-Agricultural Pool; however, there are questions to be asked and more investigation needs to take place. Chair Feenstra offered comment on Red Star Fertilizer and this matter. Chair Feenstra stated this could possibly have another claim like this come up. Mr. Jeske stated this property is subdivided and it is homes today. Mr. Jeske stated these rights are in the Non-Agricultural Pool and most of the others you are discussing are in the Agricultural Pool, and in the Agricultural Pool the Judgment specifies what happens when it goes from an agricultural use to an urban use, and that is a conversion process which is well applied and well handled. Mr. Jeske stated in the Non-Agricultural Pool it does not make that specification and there is not a conversion process in the Judgment. Mr. Koopman offered comment on this matter. Mr. Jeske stated this is not agricultural water and they did not convert agricultural water from a Non-Agricultural process. Mr. Jeske stated there is no provision to convert anything to the Non-Agricultural Pool and there is no provision to convert anything out of the Non-Agricultural Pool; the rights of the Non-Agricultural Pool are fixed and they are fixed in the Judgment in total. Mr. Crosley stated the subject rights are pertinent to property that's located near the corners of Schaffer and San Antonio Avenues in the City of Chino which is a fair distance north of the flood line. Mr. Crosley stated Red Star may have had other properties also located further south, and the subdivision included more than just a subject property, but also some adjacent pieces of the property. Mr. Crosley stated there was an existing well on the subject property that was properly abandoned by the developer when the 42 lots were built; this amount of rights and the pertinent land was not located below the flood line. Chair Feenstra asked if there was a recommendation for a motion.

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

Moved to follow the path of the other two Pools and continue this item for 60 days to resolve policy issues and to have the Agricultural Pool be actively participating in the discussions observing and adding the members input, as presented

C. WEST VENTURE DEVELOPMENT WATER RIGHTS TRANSFER TO CITY OF CHINO

Mr. Jeske stated this item was discussed under Business Item B. and the same motion was to be applied to both Business Item B and C.

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

Moved to follow the path of the other Pools and to continue this item for 60 days to resolve policy issues and to have the Agricultural Pool be actively participating in the discussions, as presented

D. WATERMASTER RESTATED JUDGMENT

Mr. Jeske stated this item is on the agenda specifically because the Agricultural Pool's special counsel, Mr. Dan McKinney, was scheduled to be here and is the one handling the Restated Judgment for the Agricultural Pool, and he was also the legal counsel who worked on the original Judgment for the Agricultural Pool. Mr. Jeske stated the Restated Judgment is a compilation of all the court actions being put together to make one complete document and this has been requested by the court. Mr. Jeske stated this action has only been approved by the Appropriate Pool. Mr. Jeske stated this item will be put on the Non-Agricultural Pool, Advisory Committee, and Watermaster Board agendas in July. Chair Feenstra thanked Mr. McKinney for being present today and asked that he give his opinion on this matter. Mr. McKinney stated the judge

clearly asked for this document, which is also clearly stated in the court proceedings, and the judge also wants the annotated Judgment next.

Mr. McKinney stated when this first came up a year ago Watermaster legal counsel put this document together and it was distributed for comments. Mr. McKinney stated he provided comments on this document a year ago. Mr. McKinney stated this document only reports to be the original Judgment with changes that have been approved by subsequent court orders. Mr. McKinney stated Watermaster legal counsel put together an appendix of all of those changes and he has reviewed them all. Mr. McKinney stated it is his view that this is something the judge is looking for, and there is no reason not to submit this Restated Judgment to the court as the current official document. Chair Feenstra inquired if there are any yellow flags. Mr. McKinney stated there are none; however, the Non-Agricultural Pool's yellow flag is for them to trust that Watermaster counsel included all orders. Mr. McKinney stated he has enough institutional memory and notes that he sincerely believes all the orders are included in this document; however, if an order appeared that was missed, that no one remembered or could find, there is no reason it could not be brought to the judge's attention. Chair Feenstra stated he has heard that this will never be approved by the Non-Agricultural Pool and asked for opinions. Mr. Jeske stated he can't tell people how that Pool would vote and offered further comment on this matter. Counsel Herrema stated he has spoken with Mr. McKinney and he feels this is what the court wanted. Mr. Pierson inquired if there is any assurance we could get from the court that if we find something later that was missing that the court would allow it. Counsel Herrema stated we could include that language in the pleading. Mr. Pierson stated he believes our counsel, and that it is inclusive of everything. Mr. Pierson stated he has some small doubt that there could be something. Mr. McKinney gave an example of what could happen if something was found and it had to be sent to the court. Mr. Vanden Heuvel stated he is not an attorney and there was a legal judgment passed in 1978 that is essentially going to be wiped out and parties will then only be using this Restated judgment. Mr. Pierson offered comment on the 1978 Judgment and the Restated Judgment. Mr. McKinney offered final comment on this matter. Counsel Herrema stated the court asked for this to be the official Judgment and what Mr. McKinney stated is important, and this is a compilation of what was done over the last several years and the administrative orders made subsequent to the original Judgment, and not all of the judgments acted to amend the judgment itself. Counsel Herrema stated what this does is complete the Judgment with the amendments to the Judgment in one single document. Counsel Herrema stated the next phase would be to add all the orders that were not actual Judgment amendments. Chair Feenstra offered further comment on this matter. Counsel Herrema reiterated exactly what the Restated Judgment is and noted it is the exact same as the 1978 Judgment with only the amendments to the Judgment added to it. Mr. Jeske stated in the beginning of this process this was a 3 step process, and he explained those 3 steps in detail. Mr. Jeske stated this is the first step in the 3 step process; however, the 3rd step has never been approved, has never been budgeted for, and Watermaster is not in the process of working on this step. Mr. Hofer inquired about the net effect by the approval of this board. Mr. McKinney stated this will go to the judge to decide if this is accurate or not and there may or may not be an opposing motion by the Non-Agricultural Pool; it is the court that will have the final decision. Chair Feenstra asked for further comments or questions.

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

Moved to approve the Restated Judgment as the "official" Judgment, as presented

E. OLD BUSINESS

Chair Feenstra asked that the members go to page 21 of the meeting package. Chair Feenstra stated this matter is regarding the comments made at the last meeting regarding line item 8456 IEUA Readiness to Serve. Chair Feenstra restated comments made by Mr. Joswiak and Ms. Maurizio. Mr. Pierson inquired if this is an invoice that is sent directly Watermaster. Mr. Joswiak stated Watermaster receives an invoice from IEUA on a monthly basis and the invoice is based on the number of meters which pertains to the IEUA ordinance no. 70. Ms. Maurizio read the letter which was received by IEUA. Mr. Pierson stated this is a penalty for

having an agricultural well. Mr. Jeske stated this is an IEUA stand-by charge and has nothing to do with Watermaster and offered further comment on that ordinance. Mr. Jeske stated this matter should be explained by the IEUA staff as it is their charge and their ordinance. Mr. Jeske stated Watermaster has a responsibility to pay the bills when they come in. Mr. Pierson stated that is his question, is this applicable to agricultural community with a single or multiple wells on their property that are metered in addition to having a parcel tax bill, or however it shows up, as readiness to serve bill. Mr. Pierson stated he does not have a problem with a readiness to serve bill; however, he does have a problem with being the agency paying for something and also the private property owner paying for something of the same nature. Mr. Pierson stated he wants to understand how that ordinance was created and the dynamics of what the component parts are. Mr. Jeske stated we can have IEUA come here and give a report. A discussion regarding this matter ensued.

III. REPORTS/UPDATES

A. LEGAL REPORT

1. Day Creek and San Sevaine Recharge Permit Time Extensions

Counsel Herrema stated we continue to be in discussions with the State Board staff on getting those extensions wrapped up. Counsel Herrema stated unfortunately we ran into summer vacations schedule issues over the last couple of weeks with the State Board staff that we have been working with, and we are still moving toward finalizing those extensions. Counsel Herrema stated the State Board staff wants to get further clarification on points of diversion and places of use to clean up those permits because they originated back in the 1980's. We are still working with them to get that wrapped up and there is no real change in status since his last report.

2. Filings for the Recharge Master Plan Status Report and Motion for Order After Hearing on the Motion For Approval of the Watermaster Resolution 2010-04

Counsel Herrema stated all of the parties received notice on this item and it was filed with the court on May 31, 2012. The Recharge Master Plan status report filing was approved unanimously by all Pools, Advisory Committee, and Watermaster Board in May. Counsel Herrema stated the motion with regard to the CDA issue regarding a private land owner's ability to challenge the CDA was approved by the Pools in March and both those filings were filed at the same item for efficiency sake.

B. CEO REPORT

1. Recharge and Storage Planning Progress

Mr. Jeske stated the only item he had was to remind everyone that we are continuing to move forward on both recharge and storage processes. Mr. Jeske stated the earlier comments were received on storage and he looks forward to getting ideas from Appropriators on storage so Watermaster can move forward and incorporate it all together and then properly take action on items. Mr. Jeske stated there are parties that are looking forward to having some policy direction and changes as necessary so that they can move forward, and where appropriate include those. Mr. Pierson inquired if Mr. Jeske thinks within a week or so staff will have the Appropriators input in to total or will it be partial over the next few sessions. Mr. Jeske stated he hopes to get all their ideas from the offsite meeting that they had, and it is unknown if they will need subsequent meetings. A discussion regarding this matter ensued.

Mr. Koopman inquired about conversions - agricultural land converted to residential use - if conversion only happens at the time that the city or purveyor actually starts serving that land. Mr. Jeske stated they make an application for land use conversion and the conversion occurs at the time of the grading permit. Mr. Koopman asked further questions on the benefit of that conversion. Ms. Maurizio offered history on this subject. A lengthy discussion regarding this matter ensued. Mr. Koopman stated this is now the third time he is asking for a list of the agricultural producers that are using recycled water and a transfer was done to the purveyor of that recycled water, and also the farmer and the purveyor that

are involved. A lengthy discussion regarding Mr. Koopman's request and this matter ensued. Mr. Jeske stated staff can get that information.

Mr. Hall asked if there was any status on the groundwater model update. Mr. Jeske stated he does not have the status report on that for today.

C. AGRICULTURAL LEGAL COUNSEL REPORT

No comment made.

IV. INFORMATION

1. Cash Disbursements for May 2012
No comment was made.

V. POOL MEMBER COMMENTS

Chair Feenstra inquired to the state representative Mr. Hall if he is the only representative from the state attending these meetings, and does he know what is happening with other state representatives that he thought were going to be attending. Mr. Hall stated the state does not know what is going on yet with those positions.

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 3:28 p.m.

Chair Feenstra stated there was no reportable action from the confidential session.

VIII. FUTURE MEETINGS AT WATERMASTER

Thursday, June 14, 2012	9:00 a.m.	Appropriative Pool Meeting
Thursday, June 14, 2012	11:00 a.m.	Non-Agricultural Pool Conference Call Mtg.
Thursday, June 14, 2012	1:30 p.m.	Agricultural Pool Meeting
Thursday, June 21, 2012	9:00 a.m.	Advisory Committee Meeting
Thursday, June 21, 2012	10:00 a.m.	CB RMPU Steering Comm. and Storage Mtg.
Thursday, June 28, 2012	11:00 a.m.	Watermaster Board Meeting

Chair Feenstra adjourned the Agricultural Pool meeting at 3:29 p.m.

Secretary: _____

Minutes Approved: July 12, 2012