

Revised Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING

June 13, 2013

The Agricultural Pool meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on June 13, 2013 at 1:30 p.m.

Agricultural Pool Members Present

Agricultural Pool Members Present

Bob Feenstra, Chair
John Huitsing
Gene Koopman
Rob Vanden Heuvel
Jeff Pierson
Glen Durrington
Pete Hall

Dairy
Dairy
Milk Producers Council
Milk Producers Council
Crops
Crops
State of California, CIM

Watermaster Board Members Present

Paul Hofer
Geoffrey Vanden Heuvel

Crops
J & D Star Dairy

Watermaster Staff Present

Peter Kavounas
Danielle Maurizio
Joe Joswiak
Brenda Corona

General Manager
Assistant General Manager
Chief Financial Officer
Recording Secretary

Watermaster Consultants Present

Brad Herrema
Mark Wildermuth
Veva Weamer

Brownstein, Hyatt, Farber & Schreck
Wildermuth Environmental Inc.
Wildermuth Environmental Inc.

Others Present

Tracy Egoscue
Larry Dimock
Rick Reese
Chuck Hays
Sherri Rojo

Egoscue Law Group
California Department of Corrections
State of California (Amec)
City of Fontana
Fontana Water Company

Chair Feenstra called the Agricultural Pool meeting to order at 1:32 p.m.

Chair Feenstra thanked Mr. Dimock for sitting in as our State Representative along with Mr. Hall. He also welcomed the new recording Executive Secretary, Ms. Corona.

Chair Feenstra stated he may have to leave the meeting early, but Mr. Pierson will take over.

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 9, 2013

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of April 2013
2. Watermaster VISA Check Detail for the month of April 2013
3. Combining Schedule for the Period July 1, 2012 through April 30, 2013
4. Treasurer's Report of Financial Affairs for the Period April 1, 2013 through April 30, 2013
5. Budget vs. Actual Report for the Period July 1, 2012 through April 30, 2013

***Motion by Durrington, second by Pierson, and by unanimous vote
Moved to approve Consent Calendar items A through B, as presented***

II. BUSINESS ITEMS**A. CDA RECHARGE MASTER PLAN UPDATE AMENDMENT**

Approve Section 5 titled "Monitoring, Reporting, and Accounting Practices to Estimate Long-Term Average Annual Net New Stormwater Recharge."

Mr. Kavounas stated the first business item is approval of Section 5 of the Recharge Master Plan and Update. Section 5 is intended to address the monitoring, reporting and accounting practices to estimate long term average annual stormwater recharge. The section has been developed and brought to the Steering Committee twice a month for their review. CBWM has identified three different ways to accomplish what we set out to accomplish. There is broad consensus among the Steering Committee that the recommended alternative 3 is the way to proceed. It was presented to the Appropriative Pool this morning; a few editorial changes were made and the Committee approved it by majority vote with the amended text. Fontana Water Company and City of Fontana voted against it. The edits will be made and CBWM will bring the item back to the Advisory for approval next week. The item also went to the Non Ag Pool and they also concurred; they voted unanimously to approve Section 5 with the edits proposed by the Appropriative Pool. Mr. Kavounas requested the Ag Pool to review Section 5 with the edits proposed by the Appropriative Pool, and recommend to adopt.

Mr. Hays, Public Works Director for the City of Fontana read part of the Judgment, under section VI, titled Physical Solution. It reads, "pursuant to the mandate of Section 2, Article 10 of the California Constitution the court hereby adopts and orders the parties to comply with a physical solution. The purpose of these provisions is to establish a legal and practical means for making the maximum, maximum beneficial use of the waters of the Chino Basin by providing the optimum economic, long term, conjunctive utilization of surface waters, ground waters and supplemental water, to meet the requirements of water users having rights in or dependant on the Chino Basin." It is essential that this physical solution provide maximum flexibility and adaptability in order that Watermaster and the court be free to use existing and future technological, social, institutional and economic options, in order to maximize beneficial use of the waters of the Chino Basin. Task 5 in its current form does just the opposite of this, it disincentives all land use agencies to construct MS4 or other recharge related projects above and beyond what is mandated by the Regional Board. This doesn't promote the maximum beneficial use of the water in the basin. As written, Task 5 allocates all New Yield captured by MS4 projects to the appropriators based on OSY; this severely disincentives the land use agencies who are also members of the Appropriative Pool from constructing MS4 upgrades above and beyond the minimum requirements. These land use agencies should have the option to capture as much recharge water as possible for the benefit of their constituents. If an agency makes the investment to construct facilities that maximize recharge then that agency should receive the credit. If we don't seize the opportunity we have now as land use agencies and good stewards of the basin to construct recharge projects, the opportunity will be lost forever as development takes place. City of Fontana has been told repeatedly that task 5 does not allocate MS4 recharge, but that is exactly what this version of Task 5 does. We were also told that discussions with the AP would take place to discuss equitable allocation of benefits, funding sources and incentives and that the AP supported an implementation plan that maximizes the

capture of storm water recharge. The current version of Task 5 doesn't work to maximize the capture of storm water, it works to minimize the capture, and the discussion of equitable allocation of benefits, funding sources and incentives has never taken place.

Mr. Hays stated for those reasons the City of Fontana opposes the current version of Task 5, we also intend to pursue innovative and effective MS4 upgrades and other recharge projects within our jurisdiction. Fontana respectfully requests and expects cooperation from the AP and Watermaster in facilitating these projects. The projects will recharge storm water into the Chino Basin that would otherwise flow beyond the basins boundaries. As such the City requests that in calculating MS4 or other storm water recharge for allocation, Watermaster not include projects located within the City's jurisdiction. Fontana would like to see a version of Task 5 similar to the July 19, 2012 version that contained the original language from the 2010 Recharge Master Plan Update, section 7.1 which stated: Watermaster should allocate new yield that is created by new recharge above that required by MS4 compliance to the owners of those projects that create new recharge. This will require the development of (a) new agreements involving the WM and project owners. Now that would be a step in the right direction in carrying out the true intent of the judgment which is to make maximum beneficial use of the waters of the Chino Basin.

Mr. Feenstra thanked Mr. Hayes for his time, and opened to the room for questions.

Mr. Koopman stated there was contradiction to what Fontana Water Company is stating: FWC wants to maximize the amount of water that can be for recharge, but you also said you don't want Watermaster or anyone else doing anything within your jurisdiction. Koopman stated we don't know the physical or financial ability of Fontana Water Company to do this.

Mr. Hays stated FWC is willing to work with CBWM, but the way the formula and the current task 5 is set up, there will be no benefit at all to FWC or the City of Fontana.

Mr. Koopman stated it's because the City of Fontana has no Safe Yield in the basin.

Mr. Hays agreed, which is why FWC is willing to make a financial investment.

Mr. Koopman stated the first thing you need is a storage agreement with Watermaster. Mr. Hays agreed.

Mr. Koopman also stated the way Mr. Hayes explains it, is if CBWM comes in to the FWC jurisdiction, Fontana will get the full benefit of that and not the rest of the Appropriators.

Mr. Hayes stated that the way task 5 is currently written, there would be no incentive at all for FWC to do any business in Fontana, but if it wasn't written the way it is, and it was changed where there was benefit, then FWC would be more than happy to work with anybody to do any type of project in the city.

Mr. Koopman stated he understands and feels it doesn't make bad sense, but has a problem with "us doing anything within your jurisdiction" meaning: if anything needs to happen; only FWC can do it, or it's not going to happen.

Mr. Kavounas stated that Watermaster has not proposed any projects at this point.

Mr. Vanden Heuvel requested to hear from Staff of some of the history and if Staff has a position on this he'd like to hear it.

Mr. Kavounas stated that the July 2012 version is not one that he can speak too as he wasn't here. What Mr. Kavounas looked at was the way the 2010 Recharge Master Plan was written, submitted to court, and then the order that came back from court. In his assessment, which he shared with the Steering Committee, this isn't a discussion about allocating new yield. He

understands how the City of Fontana would like it to be a discussion about allocating new yield, and how they would like any projects within the City of Fontana to result in yield attributed to the City of Fontana; it's in their best interest and understands. However, the Recharge Master Plan Update Amendment that we were tasked to do, that is due in October 2013, simply asks for, how do we account for MS4 induced recharge, and that's what CBWM has come up with: a way to do that. What's in Section 5 does that and would actually do that and preserve the accounting for the City of Fontana along with any other Appropriator that does MS4 Recharge within their sphere of influence. There's a lot of questions that need to be answered; for example: If an Agency, like a city authorizes a development to move forward, and the developer pays for that MS4 compliance, who gets the credit, is it the city that authorized it or the developer? CBWM is not touching those questions and in this Section 5, CBWM is not saying whether it's the developer or the city, we're saying if there is any MS4 that happens, that data should be collected, turned over to Watermaster, and when Watermaster does a Safe Yield Recalculation every ten years, that data will be used to analyze and attribute recharge to MS4. Separate and apart from the Recharge Master Plan Update Amendment, Watermaster may choose to allocate New Yield differently; Watermaster may choose to review any of the provisions that govern Chino Basin. The difference that Mr. Kavounas sees between the Staff's recommendation and the City of Fontana, and Fontana Water Company, is that they believe this is the way to address "Allocating new yield differently", and we don't. It's just a simple task that comes up with accounting for MS4 Recharge and not addressing other issues. There are many other broad issues that could be brought in to the Recharge Master Plan Update that are not being brought in for the same reason.

Mr. Vanden Heuvel confirmed the concern is the allocation of MS4, and Mr. Hayes replied yes.

More discussion took place as to the allocation.

Mr. Feenstra thanked Mr. Vanden Heuvel for his involvement. It's been a pleasure having you and Mr. Hofer here today.

Mr. Vanden Heuvel stated that he understands it as Staff explained it to him and approves.

No further questions.

Mr. Pierson asked Staff, in the text of Section 5, we are not allocating new yield to anything that is a result of MS4 projects. It's silent whether it is operating on Safe Yield or any other negotiations at the time the new yield is found, is that correct?

Mr. Kavounas stated that is correct, it's silent which implies that the existing rules remain unchanged and in effect.

Mr. Pierson asked, on the recalculation of the new yield, that new yield is a portion back to all the existing members operating safe yield?

Mr. Kavounas stated yes, that is what is happening today and is preserved through this version.

Mr. Pierson asked, so by being silent on this, Fontana will not be able to participate in any of the new yield that is developed through their vacant properties where MS4 projects would be imposed by them on a land use basis. Costs incurred by dairyman property owners, farmers, whoever has the vacant land, so in effect the benefit is going to end up in the Basin, which is good, but it's going to preclude the private property owners, the city of any gain or beneficial storage of additional new waters?

Mr. Kavounas answered yes, if that's the decision of the collective that the existing rules not be changed, that's what we would do. The proposed approach in Section 5 is to preserve the data of those projects as they go forward. If the collective wants to change those rules at some point,

they can. At this stage and time, looking at the order that we have, which is find a way to measure it, our recommendation is to keep track of the data for now, and if nothing else is done when the Safe Yield is recalculated, we'll understand which component of the Safe Yield is due to MS4 recharge.

Mr. Pierson stated if not Fontana, are there any other members other than statutory requirements for attempting to prevent a certain flow off your property. Is there any incentive beyond that for Fontana as a City and there land use regulations to attempt to conserve greater amounts of flow that could be captured.

Mr. Kavounas stated that he doesn't know of any, but will say that as far as those requirements, MS4 requires that there is containment of stormwater of all the smaller storms, and does not require containment of the very large storms. If you look at what happens to that, the innovation of capturing more than just MS4, is capturing that little bit of extra. Those opportunities come with regional type facilities with infiltration. Mr. Kavounas stated he believes the Regional Board is headed that way and will be changing the MS4 requirements to be, not necessarily site specific, but more regional. Mr. Kavounas applauds everyone that is thinking of how much can we conserve and how can we be as creative as possible. These things take a long time anyway.

Mr. Pierson does not like the idea of Operating Safe Yield as a determining factor who benefits. He doesn't like it to be unequal.

Mr. Kavounas stated what CBWM described to the Appropriative Pool is that this draft evolved as we were trying to understand how we would go about accounting. One of the things we asked is if they would send us information about anticipated growth and timing of growth. We tried to summarize those in a table that is shown on page 74. The table doesn't add value in explaining that we have disparate data from the land use agencies. One of the changes that the Appropriative Pool asked for was to eliminate that table. Another change was suggested collect the data over the next 10 years and then reassess it. However, one of the members of the committee said, "if you're finding that the data is not coming in, or if the data coming in is not useful, then we need to keep the option open to reconsider.

***Motion by Mr. Glen Durrington second by Mr. Gene Koopman, and by majority vote
Moved to approve Business Item II.A as amended per the Appropriative
Pool discussion. Mr. Jeff Pierson abstained from the vote.***

B. BUDGET TRANSFER FORM T-13-04-01

Consider Staff's Recommendation to Approve Budget Transfer Form T-13-04-01

Mr. Joswiak stated CBWM has a system where Watermaster staff time will be allocated to either administrative time, OBMP, or to the implementation projects. The Budget Transfer Form T-13-04-01 reallocates the budget to actual expenses. This form does not change the budget amount, it does not allocate any new funds, it does not use any reserve funds, it does not adjust the legal and or the engineering budget, and it does not need any special assessments.

Mr. Feenstra stated since there is no financial impact are there any questions or comments regarding the budget and its final approval.

***Motion by Mr. Jeff Pierson second by Mr. Gene Koopman, and by majority vote
Moved to approve the Budget Transfer Form T-13-04-01.***

C. OVERLYING WATERMASTER POLICY ON WELL DATA AND REPORTING (AGRICULTURAL POOL ONLY)

Consider the Existing Policy and Recommend Clarification of the Guidelines to the Board

Mr. Kavounas stated he realizes this is a sensitive subject and realizes it is most sensitive for the Agricultural Pool. CBWM is starting this discussion here and if there is a recommendation from this committee, then it will go to the rest of the Board.

Currently, CBWM collects data from Agricultural Pool wells. In some cases it's a routine collection and sometimes on special occasions. The policy that was adopted in 2001 with resolution 0103 which is included in the package. This resolution makes CBWM keep the water well data to its self. The challenge with that is, on occasion the water quality data from private wells used for domestic consumption exceed maximum contaminate limits. As such, it creates a difficult situation for Watermaster to know of a circumstance and not be able to act on it. CBWM respectfully requests to consider some alternatives for Watermaster reporting practices. CBWM has listed four bullets of alternatives in the package on page 98. One option is to stay as we are, the other option is to report all ground water quality data to the well owner and well user only, another option would be to report the data to the well owner and all regulators regardless, and the fourth option that CBWM recommends, report the ground water quality data to the well owner and only on occasions where there is an exceedance of drinking water standards report those to the regional board and public health.

Mr. Kavounas invited Mr. Herrema and Ms. Egoscue to comment on this topic.

Ms. Egoscue stated that she would like the record to reflect this agenda item is not brought to the Agricultural Pool in a manner as to insinuate that the Agricultural Pool has somehow prevented full disclosure of water quality data.

Mr. Kavounas, stated he was not here in 2001 when this policy came about and is here now and is trying to address what he believes is a difficult situation and knowing the sensitivity to the Agricultural Pool he thought we would start here and then work our way through the rest of the Pools.

Much discussion ensued.

Mr. Feenstra called a Confidential Session at 2:46 p.m. The meeting was called back in at 2:57 p.m. No reportable actions.

Mr. Feenstra turned the meeting over to Mr. Pierson at 2:57 p.m.

The Pool gave direction to Watermaster staff to bring this item for discussion in a future Special Confidential Meeting.

D. OLD BUSINESS

No comments

III. REPORTS/UPDATES**A. LEGAL COUNSEL REPORT****1. Annotated Judgment**

Mr. Herrema stated the Annotated Judgment is part of the budget process. At the June 27, 2013 Watermaster Board Meeting, Watermaster Legal Counsel will request the Board approve our circulation of the draft document that CBWM's has created to be a platform for the Annotation of the judgment. If approved, CBWM will circulate the document and assist the Parties and Stake holders to work together to create the annotations that they believe are most helpful. Mr. Herrema suggests there be one or two workshops for that purpose.

2. CDA Request re Remediation of Chino Airport Groundwater Plume

Mr. Herrema stated on May 16, 2013 the Advisory Committee by majority vote with the Agricultural Pool dissenting, reported motion to request Watermaster to continue analyzing the hydraulic control issues within the Chino Creek Well field with regard to Well 18. The Board met on May 24th, but did not take any further action on the CDA request.

3. Court Filings

Mr. Herrema stated the first filing was the Agricultural Pool motion to revise the 1998 court order establishing the nine member board, which was approved last month.

The second filing was a motion by Watermaster for approval of the 8th and 9th amendments to the Cyclic Storage Agreement. In 1978 the court approved the original Cyclic Storage Agreement, in the process of preparing this motion CBWM discovered the 8th amendment was not submitted to the court for approval. CBWM has requested that the court approve the 8th and 9th amendments. CBWM also included in the filing a request that the court receive and file the most recent semi-annual OBMP status updates. A hearing has been scheduled for July 12th at 1:30 p.m., Mr. Herrema will be there.

4. Santa Ana sucker appeal

Mr. Herrema stated that there was an article in the news paper last week related to the Plaintiff water agencies appeal of the Federal District Courts ruling in regards to the designation to the Critical Habitat, Santa Ana Sucker. Back in October the Federal District Court denied the motion for summary judgment brought by the plaintiffs and found in favor of the Fish and Wild Life Service in regard to its motion for summary judgment on the Critical Habitat designation. The plaintiffs filed a notice of appeal and a briefing schedule was issued. The plaintiff's filed their brief on June 3rd, and that was the reference in the news paper last week. If there is oral argument scheduled, it will probably be sometime this Fall. Mr. Herrema anticipates the final decision will come sometime this Winter or the first quarter of next year. A guest in the audience asked if the environmental group that filed this suit has intervened. Mr. Herrema is unsure and will report back to the Board advising if they filed amicus curiae.

B. ENGINEERING REPORT

1. State of the Basin Part II Presentation

Mr. Kavounas stated CBWM is in preparation for the 2012 report. This report is required every two years. The first part of the presentation was presented a couple months ago and Ms. Veva Weamer with Wildermuth Environmental is presenting on the second piece of it.

Ms. Weamer gave her presentation. A guest in the audience requested the State of the Basin Report to reflect if the contaminants are higher or lower for monitoring purposes. Ms. Weamer stated there are some maps that she didn't present today that have time histories of representative wells for TDS and Nitrate.

C. GM REPORT

1. Prado Basin Habitat Sustainability Program update

Ms. Maurizio stated that she reported on this item back in January 2013. She stated this is required by Peace II, EIR Mitigation Measure 4.4-3, which was adopted by IEUA's Board in October 2010. The purpose of the measure is to ensure Prado Basin riparian habitat will not incur unforeseeable significant adverse effects due to the implementation of Peace II. IEUA, Watermaster, Orange County Water District, and individual stakeholders that choose to participate will jointly fund and develop an adaptive management program. The task of the program as stated in the mitigation measure was to convene a committee, create an adaptive management plan, to install monitoring wells, to perform vegetation and aerial surveys, and to perform photo station monitoring. There is a cost sharing agreement that is in place between Watermaster and IEUA that was approved in September 2012. That cost

sharing agreement is for \$440,000.00 total, so its \$220,000.00 each. It's a 50/50 split on the capital side of it. The current budget that we're looking at is exceeding that; it's \$556,000.00, so we'll have to come back with an amendment to the cost sharing agreement. So it's looking to be about \$273,000.00 for IEUA and Watermaster. Included within that cost sharing agreement we are to hire a consultant to develop the Adaptive Management Plan; WEI to perform project management tasks related to monitoring well installation; for a contractor to construct and install 16 monitoring wells at nine separate locations; and for USBR to perform vegetation monitoring every three years. No grant money was granted. The wells are expected to be completed by the end of the calendar year and CBWM is expecting to have them done in two phases for the sites that are already permitted. As for the core sites, we hope to have the permits in place by September 15th, but as of right now we can't install the wells because there are some bird nesting issues at those sites.

2. Sunding Report Update

Mr. Kavounas stated this is an item that was added to the budget at the request of the Appropriative Pool. Non-Ag and Ag Pools agreed to add it to the budget as long as they don't pay for it. In July the Appropriate Pool will take a Committee of interested Appropriators to review the scope and define the deliverables prior to approving.

3. Consider cancelling July Meeting

Mr. Kavounas stated that CBWM recommends canceling the July Pool Meetings: Advisory, Agricultural, Non-Agricultural, and Appropriative primarily because there is not a hot-pressing item that we will bring in July. If any special issues come up, CBWM can then have a Special meeting. CBWM views July as the month to focus on Section 8 of the Recharge Master Plan Update Amendment.

Mr. Kavounas stated that CBWM is focusing on task 8 of the Recharge Master Plan Amendment. There was a question at the last Steering Committee meeting whether in lieu projects should be included even though there is lack of data, and furthering the discussions with other parties; CBWM will include in lieu projects and rely on them to provide that information to complete the chart. That discussion will start next Thursday at the Steering Committee.

Mr. Kavounas stated that CBWM is working with the material collected in March at the Refresh, Recharge, and Reunite event. Mr. Kavounas intends to take this to the Board and then bring it back to the Pools, so all parties know what Watermaster plans are.

Mr. Kavounas stated CBWM developed a summary chart of the 1998 Court Order establishing the 9 Member Board. The chart will reflect that there are four types of actions that can be taken by the Watermaster Board and what the authority of the Advisory Committee is with respect to each one, and what the responsibilities are for the Board.

Mr. Kavounas also stated the look of our staff letters has changed so the reader can tell what type of action it is and what the next steps or previous steps are.

Mr. Kavounas advised that Wildermuth Engineering Inc. scope has changed on the Recharge Master Plan Update, so CBWM will probably run over budget. In net we'll be about \$100,000.00 over budget. CBWM asked WEI to do a lot more work than anticipated in December 2012.

On July 30th a Safe Yield Recalculation Work Shop will present a presentation with the new model and calibrated model. It affects many aspects of managing the basin.

Mr. Kavounas announced that he'll be on vacation from June 19th returning back to the office July 8th. All questions and inquiries can be addressed to Ms. Danni Maurizio.

D. AGRICULTURAL POOL LEGAL COUNSEL REPORT

No comment was made.

IV. INFORMATION

- 1. Cash Disbursements for May 2013

No comment was made.

V. POOL MEMBER COMMENTS

No comment was made.

VI. OTHER BUSINESS

No comment was made.

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.

VIII. FUTURE MEETINGS AT WATERMASTER

Thursday, June 13, 2013	9:00 a.m.	Appropriative Pool Meeting
Thursday, June 13, 2013	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, June 13, 2013	1:30 p.m.	Agricultural Pool Meeting
Tuesday, June 18, 2013	1:00 p.m.	Ethics & Sexual Harassment Prevention Training
Thursday, June 20, 2013	8:00 a.m.	IEUA DYY Meeting
Thursday, June 20, 2013	9:00 a.m.	Advisory Committee Meeting
Thursday, June 20, 2013	10:00 a.m.	RMPU Amendment Steering Committee Meeting
Tuesday, June 25, 2013	9:00 a.m.	GRCC Meeting
Thursday, June 27, 2013	11:00 a.m.	Watermaster Board Meeting

Chair Feenstra adjourned the Agricultural Pool meeting at 2:53 p.m.

Secretary: _____

Minutes Approved: August 8, 2013