

MINUTES
CHINO BASIN WATERMASTER
AGRICULTURAL POOL - SPECIAL MEETING

December 13, 2018

The Agricultural Pool special meeting was held at the offices of the Milk Producer's Council located at 13545 S. Euclid Avenue, Ontario CA and via conference call on December 13, 2018.

AGRICULTURAL POOL MEMBERS PRESENT

Bob Feenstra, Chair	Dairy
Jeff Pierson, Vice-Chair	Crops
Lawrence Dimock	State of California – CIM
Nathan deBoom	Dairy
Henry De Haan	Dairy
Ronald Pietersma	Dairy
John Huitsing	Dairy
Ron Labrucherie, Jr.	Crops

WATERMASTER BOARD MEMBER PRESENT

Paul Hofer	Crops
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OTHERS PRESENT

Tracy Egoscue	Egoscue Law Group, Inc.
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AGRICULTURAL POOL MEMBERS PRESENT ON CALL

Pete Hall	State of California – CIM
Geoffrey Vanden Heuvel	Dairy
Carol Boyd	State of California – CIM

OTHERS PRESENT ON CALL

Marilyn Levin	State of California – DOJ
Richard Rees	Wood plc

CALL TO ORDER

Chair Feenstra called the Agricultural Pool special meeting to order at 1:00 p.m.

AGENDA - ADDITIONS/REORDER

None

I. CONFIDENTIAL SESSION - POSSIBLE ACTION

The Pool went into Confidential Session to discuss the Appeal of April 28, 2017 Order, Writ of Mandate, and 2018 Proposed Agreement to Appropriative Pool Pooling Plan and CAMA Amendments. Confidential session concluded at 2:28 p.m. with the following reportable action:

Tom Bunn, on behalf of the parties to the appeal, Chino Basin Municipal Water District v. City of Chino Court of Appeal Case No. E068640, (Appeal), sent an email to the attorney for the Ag Pool on November 21, 2018, containing the final version of the 2018 Proposed Agreement to Appropriative Pool Pooling Plan and CAMA Amendments with exhibits (2018 Proposed Agreement). Having received and reviewed the email and attachments, the Ag Pool now makes the following motion reiterating and further clarifying previous requests regarding the 2018 Proposed Agreement:

The Safe Yield Reset and related methodology is an integral part of the Court's April 28, 2017 Order resetting the Chino Basin Safe Yield at 135,000 acre-feet per year (Reset Order). The Ag Pool has made repeated requests for the parties to the Appeal to acknowledge the Court's Safe Yield Reset and Order regarding the related methodology process because the 2018 Proposed Agreement is allegedly an agreement to resolve the Appeal of the Reset Order. The Safe Yield Reset and the related methodology were the result of lengthy, arduous, and resource intensive negotiations between the Pools and the parties to the Judgment.

At its July 19, 2018 meeting, the Ag Pool voted unanimously to conditionally approve the process and the following documents provided in advance of the meeting by Watermaster staff: (1) 2018 Acknowledgment and Consent to CAMA Amendments; (2) Physical Solution Transfers; and (3) Chino Basin Watermaster Memorandum of Understanding Regarding Contributions of Safe Yield for Desalter Replenishment. As reflected in the meeting minutes, the Ag Pool's approval was made contingent upon the following modifications to the above documents: (1) *all three documents should be merged into one inclusive document;* (2) *on page 2, paragraph 2 please add the effective date of the Safe Yield reset;* (3) *on page 2, paragraph 2 please clarify that the Safe Yield process that was part of the Judge's Reset Order including peer review and the reset process remains in effect;* (4) *page 4, (iv) please clarify what is meant by the term "particular year;"* and (5) *page 8, the State requests that they be removed as a signatory.*

At its September 13, 2018 meeting, the Ag Pool revoked its July 19 conditional approval of the proposed Safe Yield Reset-Related Agreements as presented, and respectfully requested that the parties address the Ag Pool comments made on July 19, 2018, as follows: (1) *please add the effective date of the Safe Yield Reset;* (2) *please include the Safe Yield process that was part of the Judge's April 28, 2017 Order;* and (3) *the Ag Pool respectfully requests that the final version of the Safe Yield Reset-Related Agreements be brought back to the October 2018 Pool meeting for the Ag Pool's reconsideration.*

Again, these requests were made by the Ag Pool because the Proposed Agreement was allegedly provided in order to resolve the Appeal. Despite this, the relevant requested language is not yet incorporated into the final 2018 Proposed Agreement.

Therefore, the Ag Pool hereby withholds its approval of the final version of the 2018 Proposed Agreement to Appropriate Pool Pooling Plan and CAMA Amendments as transmitted by Tom Bunn on November 21, 2018. We propose the following modifications to the 2018 Proposed Agreement are made in total: (1) add the language ordering the Safe Yield Reset; and (2) include the language regarding the Safe Yield reset methodology process. The relevant language from the Reset Order is set forth below for ease of reference and clarity and must be included in the 2018 Proposed Agreement before the Ag Pool will consider approval of the 2018 Proposed Agreement.

4.1 Safe Yield Reset. Consistent with the prior orders of the Court pursuant to its continuing jurisdiction, effective July 1, 2010 and continuing until June 30, 2020, the Safe Yield for the Basin is reset at 135,000 AFY. For all purposes arising under the Judgment, the Peace Agreements and the OBMP Implementation Plan, the Safe Yield shall be 135,000 AFY, without exception, unless and until Safe Yield is reset in accordance with the procedures set forth in this order, and determined by the Court pursuant to its retained continuing jurisdiction.

4.2 Scheduled Reset. Watermaster will initiate a process to evaluate and reset the Safe Yield by July 1, 2020 as further provided in this order. Subject to the provisions of Paragraph 4.3 below, the Safe Yield, as it is reset effective July 1, 2020 will continue until June 30, 2030. Watermaster will initiate the reset process no later than January 1, 2019, in order to ensure that the Safe Yield, as reset, may be approved by the court no later than June 30, 2020. Consistent with the provisions of the OBMP Implementation Plan, thereafter Watermaster will conduct a Safe Yield evaluation and reset process no less frequently than every ten years. This Paragraph is deemed to satisfy Watermaster's obligation, under Paragraph 3(b) of Exhibit "I" to the Restated Judgment, to provide notice of a potential change in Operating Safe Yield.

4.3 Interim Correction. In addition to the scheduled reset set forth in Paragraph 4.2 above, the Safe Yield may be reset in the event that, with the recommendation and advice of the Pools and Advisory Committee and in the exercise of prudent management discretion described in Paragraph 4.5(c),

below, Watermaster recommends to the court that the Safe Yield must be changed by an amount greater (more or less) than 2.5% of the then-effective Safe Yield.

4.4 Safe Yield Reset Methodology. The Safe Yield has been reset effective July 1, 2010 and shall be subsequently evaluated pursuant to the methodology set forth in the Reset Technical Memorandum. The reset will rely upon long-term hydrology and will include data from 1921 to the date of the reset evaluation. The long-term hydrology will be continuously expanded to account for new data from each year, through July 2030, as it becomes available. This methodology will thereby account for short-term climatic variations, wet and dry. Based on the best information practicably available to Watermaster, the Reset Technical Memorandum sets forth a prudent and reasonable professional methodology to evaluate the then prevailing Safe Yield in a manner consistent with the Judgment, the Peace Agreements, and the OBMP Implementation Plan. In furtherance of the goal of maximizing the beneficial use of the waters of the Chino Basin, Watermaster, with the recommendation and advice of the Pools and Advisory Committee, may supplement the Reset Technical Memorandum's methodology to incorporate future advances in bestmanagement practices and hydrologic science as they evolve over the term of this order.

4.5 Annual Data Collection and Evaluation. In support of its obligations to undertake the reset in accordance with the Reset Technical Memorandum and this order, Watermaster shall annually undertake the following actions: (a) Ensure that, unless a Party to the Judgment is excluded from reporting, all production by all Parties to the Judgment is metered, reported, and reflected in Watermaster's approved Assessment Packages; (b) Collect data concerning cultural conditions annually with cultural conditions including, but not limited to, land use, water use practices, production, and facilities for the production, generation, storage, recharge, treatment, or transmission of water; (c) Evaluate the potential need for prudent management discretion to avoid or mitigate undesirable results including, but not limited to, subsidence, water quality degradation, and unreasonable pump lifts. Where the evaluation of available data suggests that there has been or will be a material change from existing and projected conditions or threatened undesirable results, then a more significant evaluation, including modeling, as described in the Reset Technical Memorandum, will be undertaken; and, (d) As part of its regular budgeting process, develop a budget for the annual data collection, data evaluation, and any scheduled modeling efforts, including the methodology for the allocation of expenses among the Parties to the Judgment. Such budget development shall be consistent with section 5.4(a) of the Peace Agreement.

4.6 Modeling. Watermaster shall cause the Basin Model to be updated and a model evaluation of Safe Yield, in a manner consistent with the Reset Technical Memorandum, to be initiated no later than January 1, 2024, in order to ensure that the same may be completed by June 30, 2025.

4.7 Peer Review. The Pools shall be provided with reasonable opportunity, no less frequently than annually, for peer review of the collection of data and the application of the data collected in regard to the activities described in Paragraphs 4.4, 4.5, and 4.6 above.

4.8 No Retroactive Accounting. Notwithstanding that the initial Safe Yield reset, described in Paragraph 4.1 above, shall be effective as of July 1, 2010, Watermaster will not, in any manner, including through the approval of its Assessment Packages, seek to change prior accounting of the prior allocation of

Safe Yield and Operating Safe Yield among the Parties to the Judgment for production years prior to July 1, 2014.
(Reset Order at 15:18 – 18:15.)

*Motion by Mr. Ronald Pietersma, seconded by Mr. Ron LaBrucherie, Jr., and by unanimous vote
Moved to approve the actions as shown above.*

ADJOURNMENT

Chair Feenstra adjourned the Agricultural Pool special meeting at 2:28 p.m.

Secretary: _____

Approved: _____ January 10, 2019 _____