

**Minutes**  
**CHINO BASIN WATERMASTER**  
**JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING**  
March 8, 2007

The Joint Appropriative and Non-Agricultural Pool Meeting were held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on March 8, 2007 at 10:00 a.m.

**APPROPRIATIVE POOL MEMBERS PRESENT**

Raul Garibay, Chair	City of Pomona
Rosemary Hoerning	City of Upland
Robert DeLoach	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Charles Moorrees	San Antonio Water Company
Mike McGraw	Fontana Water Company
Mike Maestas	City of Chino Hills
J. Arnold Rodriguez	Santa Ana River Water Company
Ken Jeske	City of Ontario
Eldon Horst	Jurupa Community Services District
Chris Diggs	Fontana Union Water Company
Dave Crosley	City of Chino

**NON-AGRICULTURAL POOL MEMBERS PRESENT**

Kevin Sage	Vulcan Materials Company (Calmat Division)
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**Watermaster Board Members Present**

Sandra Rose	Monte Vista Water District
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**Watermaster Staff Present**

Kenneth R. Manning	Chief Executive Officer
Sheri Rojo	CFO/Asst. General Manager
Gordon Treweek	Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Michael Fife	Hatch & Parent
Mark Wildermuth	Wildermuth Environmental Inc.

**Others Present**

Frank LoGuidice	Fontana Union Water Company
Bob Bowcock	Vulcan Materials Company (Calmat Division)
Mohamad El-Amamy	City of Ontario
Scott Burton	City of Ontario
John Rossi	Western Municipal Water District
Gil Aldaco	City of Chino

Chair Garibay called the joint Appropriative and Non-Agricultural Pool meeting to order at 10:05 a.m.

**AGENDA - ADDITIONS/REORDER**

Mr. Manning stated Rich Atwater from Inland Empire Utilities Agency asked that the second item in the Business Item section of the meeting packet regarding the ASR Agreement between Chino Basin Watermaster, Inland Empire Utilities Agency (IEUA), and Monte Vista Water District be made into an information item in order to allow IEUA to review the actual agreement in greater detail.

Mr. Rossi asked if the item he was reporting on under CEO/Staff Reports regarding the progress on the desalters could be heard prior to the business items due to his schedule.

**D. CEO/STAFF REPORT (This item was take out of order)**

**3. Progress Report on Desalter Expansion**

Mr. Rossi handed out a Draft Conceptual Proposal. Mr. Rossi stated the original Peace Agreement establishes general obligations on the signatories with regard to planning for expanded desalting in the Chino Basin. Among these obligations, Western Municipal Water District (WMWD) and Inland Empire Utilities Agency (IEUA) assumed responsibility for raising revenues to support expanded desalting capacity. The Peace II Term Sheet proposes the adoption of Hydraulic Control as a Basin Management Strategy. Watermaster is obligated to develop a Hydraulic Control Operation Plan that will reduce groundwater discharge from the Chino Basins to the Santa Ana River to de minimus quantities. The Hydraulic Control Operating Plan is to be coordinated with the planned expansion of existing desalters with new groundwater production and treatment capacity. The Peace II Term Sheet sets for the general parameters for the design, construction and operation of the future desalters. WMWD and IEUA have been successful in raising third party funds that can be used to substantially reduce the capital costs that may be incurred in the construction of the future desalters in a cumulative amount which may exceed \$40 million. Approximately \$7 million has been fully approved but must be spent as soon as September of 2008. The stakeholders must support a proposed schedule for the apportionment of potential forgiveness of replenishment that will offset future desalter over-production. Mr. Rossi discussed a concern which is how to ensure the prudent design of the future desalters within the timeframe required to expend the third-party grant funds. Mr. Rossi discussed the proposal which would require adherence to the schedule proposed by Watermaster which involves; establishing a project description, designate the lead agency for CEQA, and complete the Peace II documentation and transmit to the court by July 2007. The "Project Coordination Agreement" which was outlined in the handout was reviewed and discussed in detail. A discussion ensued with regard to this matter and the necessity to hire a person to assist in the management of this project. Mr. Jeske handed out two resumes for possible candidates for this position to assist in the funding/grant process for this project and noted WMWD and IEUA will hire this person to coordinate the grants. Mr. Manning noted he will be involved in the interview process of these candidates and the contract for the outside services will be through the Chino Basin Watermaster office. A discussion ensued with regard to the type of person being looked for as a project coordinator/facilitator to better assist in the process along with a discussion regarding the desalter expansion program. Mr. Manning stated time is of the essence regarding this item and all parties want to move quickly. Recommendations will be brought to this pool regarding this item next month.

**I. CONSENT CALENDAR**

**A. MINUTES**

1. Minutes of the Joint Appropriative and Non-Agricultural Pool Meeting held February 8, 2007

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of February 2007
2. Combining Schedule for the Period July 1, 2006 through January 31, 2007
3. Treasurer's Report of Financial Affairs for the Period January 1, 2007 through January 31, 2007
4. Profit & Loss Budget vs. Actual July 2006 through January 2007

**C. RESOLUTION 07-03**

A Resolution of the Chino Basin Watermaster Levying Replenishment and Administrative Assessments for Fiscal Year 2006-2007

**D. STATUS REPORT 2006-02**

Consider Approval to File Status Report 2006-02 with the Court

*Motion by DeLoach, second by Jeske, and by unanimous vote – Non-Ag concurred  
Moved to approve Consent Calendar Items A through D, as presented*

The water transactions were pulled for discussion.

#### **E. WATER TRANSACTION**

1. Consider Approval for Notice of Sale or Transfer – The one-year lease of 5,230 acre-feet of water from the City of Chino's annual production rights to the City of Ontario. This lease is made first from Chino's net under-production in Fiscal Year 2006-2007, with any remainder to be recaptured from storage. Date of Application: February 9, 2007
2. Consider Approval for Notice of Sale or Transfer – Fontana Water Company has agreed to purchase from West Valley Water District water in storage in the amount of 1,000 acre-feet to satisfy a portion of the Company's anticipated Chino Basin replenishment obligation for Fiscal Year 2006-2007. Date of Application: February 12, 2007

Mr. Manning stated these transactions are considered to be general practice in that they are put onto the Consent Calendar for three Pools and then thirty days later are placed for consideration on the Consent Calendar for the Advisory Committee and the Watermaster Board. Mr. Kinsey stated Watermaster has an obligation to maintain Hydrologic balance within the entire basin and we know that is an issue in MZ1 right now. Mr. Kinsey stated that maybe as a part of the water transaction evaluation process for all transfers should be an evaluation if the transfer of production rights has a negative affect on Watermaster's ability to secure wet water recharge for the purpose of Hydrologic balance. Mr. Kinsey inquired if these two transactions had a material physical injury analysis done for these and if they did was that part of the consideration. Mr. Manning stated Watermaster staff does in some cases the determination of material physical injury based upon what we see is taking place and in some cases we will send the transactions onto Wildermuth Environmental for evaluation. In this particular case Watermaster staff are the ones who made the recommendation on these transfers and it is stated in the analysis that staff stated it does not appear there is any material physical injury taking place with these two transactions. Mr. Manning offered comment on the MZ1 Technical Committee meeting that took place this morning. Mr. Wildermuth stated he concurred with the staff's recommendations that these two transfers to do not interfere with Hydraulic balance this year. Mr. Jeske stated that transaction number one forgoes transfers from an agency that typically pumps in MZ1 to an agency that typically does not so it would reduce the pumping demand on MZ1 unlike some of the transfers that have been recently approved. Mr. Jeske stated that transaction number two appears to be between two agencies that are in the MZ1 area and transferring within the same area. Mr. Jeske offered comments on OBMP management practices.

*Motion by Kinsey, second by DeLoach, and by unanimous vote – Non-Ag concurred  
Moved to approve Consent Calendar Item E, as presented*

## **II. BUSINESS ITEMS**

### **A. PROPOSAL TO PERFORM THE SOCIOECONOMIC IMPACT ANALYSIS OF OBMP AND PEACE AGREEMENT**

Mr. Manning stated this item is being presented today to approve the proposal to perform the Socioeconomic Impact Analysis of the OBMP and the Peace Agreement. This item has been discussed at previous meetings and at a recent meeting a handout was distributed with a spreadsheet that showed some draft calculations that Dr. Sunding had done on what he thought the cost would be with a caveat that he could not be certain of those costs until he had done the scoping work. Dr. Sunding performed the macro economic study and it seemed absolutely appropriate that he also do the micro analysis. This is one of the prerequisites prior to requesting court approval of the final agreement on the Judgment amendments. Staff is recommending Dr. Sunding to perform this process and it is staff's anticipation that the process would begin in April 2007 and staff has not yet determined the sequence of events; however, it would incorporate interviews with parties within the Judgment to get a feel for the magnitude of the study in terms of the components that would be involved. Mr. Kinsey inquired into the

scoping sequence and noted he felt it more beneficial if Dr. Sunding go out and visit agencies and get their input prior to holding the scoping workshop. Mr. Manning stated that based on Mr. Kinsey's comment he went back and looked at Dr. Sunding's sequence and it appears his intent is to do exactly that in visiting the agencies prior to the workshop. Mr. Kinsey noted the contract states it is subject to confidentiality provisions and the concern there is that Monte Vista Water District would like the process and access to the information to be as open and transparent as possible so that if we or others have questions on a particularly part of the analysis we have the opportunity to look at it; a confidentiality provision would hinder that process. A discussion ensued with regard to the confidentiality provision. Counsel Fife stated this is the way it was done with the macro economic study there was nothing hidden from the parties. Counsel Fife stated for the purpose of doing this study we would not accomplish our goals if we were hiding information in any way. Chair Garibay inquired into the costs for the scoping and what the actual scoping included. Counsel Fife stated there is not a scope because the first thing that needs to happen is to create a scope. The suggestion is that Dr. Sunding would first meet with the parties and then we would then have a scoping meeting/workshop to develop a scope. This is slightly different from the macro economic analysis where we put a cap on the dollar figure; this is now where Dr. Sunding will work on an hourly rate. Ms. Hoerning stated that unlike the macro economic analysis that the micro analysis we get the draft document with more time for review and digesting before it is actually received and filed along in the process. A discussion ensued with regard to this matter. Mr. Jeske noted he does not see a cap on this proposal and noted it leaves a wide open scoping process financially. A discussion ensued with regard to costs and increases in assessments. Mr. Jeske stated he would be willing to make a motion that would agree to pay Dr. Sunding his rate through the scoping session and then we would bring a contract forward when we know what the contract is for, what the scope is, and what the dollar amount is going to be instead of entering into this sight unseen.

*Motion by DeLoach, second by Jeske, and by unanimous vote – Non-Ag concurred*

***Moved to approve retaining Dr. Sunding to perform the scoping portion of the project with the understanding that the parties will have full access to all of his background information and deliberative processes and to allow Dr. Sunding to go out and meet with the agencies to lay out a scope of work and then come back with a draft contract to complete the entire Socioeconomic impact analysis of the OBMP and Peace Agreement, as presented***

**B. ASR AGREEMENT BETWEEN CHINO BASIN WATERMASTER, INLAND EMPIRE UTILITIES AGENCY AND MONTE VISTA WATER DISTRICT**

Mr. Manning stated in December of 2005 the Pools and approved the Monte Vista Water District (MVWD) application for recharge into the basin and in January 2006 the Advisory Committee and Watermaster Board took action to approve that application as well. Mr. Manning stated what Monte Vista Water District had applied for is to recharge through injection up to 3,500 acre-feet of treated State Project water in its wells one, four, thirty, and thirty two. That agreement was subject to a permit that would issued by either the Regional Board or the Inland Empire Utilities/Chino Basin Watermaster through its Maximum Benefit permits. Monte Vista has decided request IEUA/CBWM covering and is making an application for that. Mr. Manning stated this agreement was done last week and was immediately put into the package without it being sent to IEUA which is why Rich Atwater is asking that this item be moved from a business item to an information item in order to give IEUA time to review the agreement. The options being presented now are to view this item as an information item or to approve the item contingent upon approval from IEUA. A discussion regarding the time schedule ensued. Mr. Kinsey stated the facility has been in operation since late November 2006 and MVWD would like to move forward on the injection portion of this project to start developing data and this is taking a lot longer than anticipated. A lengthy discussion ensued with regard to this matter along with the Max Benefit Agreement funding process.

*Motion by Kinsey, second by Hoerning, and by unanimous vote – Non-Ag concurred*

***Moved to approve the ASR Agreement between Chino Basin Watermaster, Inland Empire Utilities Agency, and Monte Vista Water District contingent upon approval by Inland Empire Utilities Agency in its current form, as presented***

**C. AQUA CAPITAL MANAGEMENT LP INTERVENTION**

Mr. Manning stated this item is to consider approval of Application of Intervention by Aqua Capital Management LP to become a member of the Overlying Non-Agricultural Pool. This item is related to items D and E of the meeting packet and all three of these items can be taken together for discussion purposes. Mr. Jeske stated this is an item of concern for the City of Ontario. Mr. Jeske stated it is his understanding this is a company that wants to intervene in an overlying pool without being an overlying land owner and then transfer rights back and forth. Mr. Jeske stated the first thing he would like to see would be an analysis of the appropriateness of this request under the Judgment and under California law of a non-overlying entity being in an overlying pool and acquiring overlying rights. Mr. Kinsey stated he agrees with the City of Ontario in questioning whether this company can acquire overlying rights without being an overlying land owner; this is taking a water right and completely freeing it from the concept of land ownership and it is not even a California Corporation. Mr. Kinsey stated there are two questions presented here today, can we do this under our current Judgment and does this change the commitments of how that water would be utilized under the Peace II Term Sheet? Counsel Fife stated the staff report does provide Watermaster's staffs' position that under the Judgment we can do this. Our understanding is there are Non-Agricultural Pool members who do not currently own property in the basin. CCG Ontario's water rights are actually owned by a holding company called Prologis, who not only does not own property in the Chino Basin, but never actually notified Watermaster that they had bought the water rights and they had never intervened. Mr. Bowcock stated his hopes were not that by this presented transaction the parties are going to correct all the ills that are in the 1978 Judgment, the Peace Agreement, and the upcoming Peace II Term Sheet. Mr. Bowcock stated this is a simple business relationship wherein the party that owns the asset, the water right, is transferring ownership, and the party acquiring ownership, wants to intervene into the Judgment with the full intent to comply with all the rules and regulations set forth in the current Judgment and in the upcoming Peace II Term Sheet; it is just that simple. Ms. Hoerning inquired if there was a requirement that transactions are fixed to land. Counsel Fife stated based on the original Judgment the answer is yes; although since then namely in the Peace Agreement we modified that by allowing Non-Agricultural Pool members to transfer water between themselves; we took their water rights away from their strict tie to specific parcels of land. Mr. Bowcock stated this transaction does not change any of the terms in Peace II at all. Mr. Jeske requested we table this item for 30 days to allow more time to review and the item be placed on the April agenda. A discussion ensued with regard to tabling this item.

*Motion by Jeske, second by Kinsey, and by unanimous vote of the Appropriative Pool members – Non-Ag representative, Kevin Sage approved this item as presented*

***Moved to table this item until next month***

**D. FORM 5**

Discussion and Possible Action for the Form 5 Application to Transfer Annual Production Right or Safe Yield from CCG Ontario to Aqua Capital Management LP, Fiscal Year 2006-2007

*Motion by Jeske, second by Kinsey, and by unanimous vote of the Appropriative Pool members - Non-Ag representative, Kevin Sage approved this item as presented*

***Moved to table this item until next month***

**E. WATER TRANSACTION**

Consider Approval for Notice of Sale or Transfer – CCG Ontario, LLC hereby applies to permanently transfer to Aqua Capital Management LP the quantity of 630.27 acre-feet of Corresponding Safe Yield, 8223.41 acre-feet of Non-Agricultural Storage Account, and any remaining balances adjudicated to transferor for its predecessor in interest in the Judgment. Date of application: February 28, 2007

*Motion by Jeske, second by Kinsey, and by unanimous vote of the Appropriative Pool members – Non-Ag representative, Kevin Sage approved this item as presented*  
***Moved to table this item until next month***

### **III. REPORTS/UPDATES**

#### **A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

1. Santa Ana River Water Right Application

Counsel Fife stated the application has been noticed and there is a hearing scheduled for May 2, 2007. The Board changed the pre-hearing workshop which was originally scheduled for April 6, 2007 and has now been moved up a day to April 5, 2007 and we appear to be moving ahead. We do have one outstanding protest to our application and that is from the Department of Fish and Game and we are going to meet with them today to go over our application. We do understand they have resolved the protest with Orange County Water District. Counsel and staff did have a meeting with parties to discuss strategies and details last week. Our notice of intent to appear is due on March 21, 2007 and what that involves is not only us announcing that we will participate in the hearing but also that we will be giving them a list of our witness and what each of those witnesses will be speaking on along with our exhibit list. One of the things we are looking for right now is a good biologist who also knows Prado Basin very well. A brief discussion ensued with regard to this matter.

2. Peace II Process

Counsel Fife stated this item was discussed under the Sunding item and there is nothing new to report on at this item. Mr. DeLoach noted the invoices that are incurring due to the pending Scalmanini report.

#### **D. CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning stated on February 26, 2007 SAWPA had its Legislative Day in Sacramento and Watermaster staff did participate in it. Mr. Manning stated there were meetings with Assembly Republicans, Assembly Democrats, Committee Chairs, Senate Republicans and Democrats, and were able to discuss pieces of legislation that are before the body. It was a very good meeting day that ended with a reception that was at the Old Senator Hotel and had good participation overall. There is another meeting scheduled in Sacramento later this month and Mr. Manning will report on that meeting next month.

2. Recharge Update

Mr. Manning stated most of the recharge that took place this month has been from storm water. Metropolitan Water District did have its connections turned off for a large portion of February, and when they came back online staff asked them not to turn them back on because we are waiting on the Cyclic Storage Agreement to be executed by Metropolitan and approved.

3. Progress Report on Desalter Expansion

This item was taken out of order and was reported on after the Consent Calendar.

### **IV. INFORMATION**

1. Metropolitan Water District Letter

No comment was made regarding this item.

2. Newspaper Articles

No comment was made regarding this item.

### **V. POOL MEMBER COMMENTS**

No comment was made regarding this item.

### **VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. FUTURE MEETINGS**

March 8, 2007	8:00 a.m.	MZ1 Technical Committee Meeting
March 8, 2007	10:00 a.m.	Joint Appropriative & Non Agricultural Pool Meeting
March 20, 2007	9:00 a.m.	Agricultural Pool Meeting @ IEUA
March 22, 2007	9:00 a.m.	Advisory Committee Meeting
March 22, 2007	11:00 a.m.	Watermaster Board Meeting
March 27, 2007	9:00 a.m.	GRCC Meeting

The Appropriative and Non-Agricultural Pool committee meeting was dismissed at 12:00 p.m.

Secretary: \_\_\_\_\_

Minutes Approved: April 12, 2007