

Verbatim Minutes
CHINO BASIN WATERMASTER
JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING
February 4, 2010

The Annual Joint Appropriative and Non-Agricultural Pool Meeting were held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on February 4, 2010 at 1:00 p.m.

APPROPRIATIVE POOL MEMBERS PRESENT

Mark Kinsey, Chair	Monte Vista Water District
Ken Jeske	City of Ontario
Robert DeLoach	Cucamonga Valley Water District
Josh Swift	Fontana Water Company
Robert Young	Fontana Union Water Company
Charles Moorrees	San Antonio Water Company
Raul Garibay	City of Pomona
John Mura	City of Chino Hills
Dave Crosley	City of Chino
Shaun Stone	City of Upland
Ben Lewis	Golden State Water Company
Tom Harder	Jurupa Community Services District

NON-AGRICULTURAL POOL MEMBERS PRESENT

Bob Bowcock	Vulcan Materials Company (Calmat Division)
Mohammed El-Amamy	City of Ontario
Brian Geye	Auto Club Speedway
Steve Arbelbide	California Steel Industries
Jorge Rosa	Southern California Edison
David Starnes	Swan Lake Mobile Home Park
Roger Han	Praxair

WATERMASTER BOARD MEMBERS PRESENT

Michael Camacho	Inland Empire Utilities Agency
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Watermaster Staff Present

Kenneth R. Manning	Chief Executive Officer
Sheri Rojo	CFO/Assistant General Manager
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental Inc.

Others Present

David DeJesus	Three Valleys Municipal Water District
Kevin Sage	Vulcan Materials Company
Dennis Poulsen	California Steel Industries
Allen Hubsch	Hogan & Hartson LLP
Marguerite Battersby	Sheppard Mullin Richter & Hampton LLP
Eunice Ulloa	Chino Basin Water Conservation District
Marty Zvirbulis	Cucamonga Valley Water District

Chair Kinsey called the Joint Appropriative and Non-Agricultural Pool Meeting to order at 1:00 p.m.

Mark Kinsey: Are there any changes or reordering to the agenda?

Ken Manning: Yes, Mr. Chairman item two B, we had anticipated we were going to receive the contract from Dr. Sunding prior to today's meeting as it is stated in the agenda. We have not received that as yet so I am asking that it be held over for next month.

Mark Kinsey: Okay

AGENDA - ADDITIONS/REORDER

Allen Hubsch: I also have a point of order. I would like to ask the chair of the Non-Ag Pool if there is a quorum present of the Non-Ag Pool.

Bob Bowcock: Yes, I believe that the Non-Agricultural Pool has a quorum.

Allen Hubsch: I would like the minutes to reflect there is a quorum of the Non-Ag Pool present.

Ken Manning: For the purposes of the meeting does it only take one?

Bob Bowcock: I think that is right.

Ken Manning: Okay.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Annual Non-Agricultural Pool Election Meeting held January 7, 2010
2. Minutes of the Annual Appropriative Pool Election Meeting held January 7, 2010
3. Minutes of the Annual Joint Appropriative & Non-Agricultural Pool Meeting held January 7, 2010
4. Minutes of the Special Non-Agricultural Pool Conference Call Meeting held January 18, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of December 2009
2. Watermaster Visa Check Detail for the month of December 2009
3. Combining Schedule for the Period July 1, 2009 through December 31, 2009
4. Treasurer's Report of Financial Affairs for the Period December 1, 2009 through December 31, 2009
5. Budget vs. Actual July through December 2009

C. CHINO BASIN WATERMASTER ANNUAL AUDIT

Chino Basin Watermaster Annual Audit Performed by Mayer Hoffman McCann P.C.

*Appropriative Pool: Motion by DeLoach, second by Crosley, and by unanimous vote
Moved to approve Consent Calendar item A2, A3 through C, as presented*

Allen Hubsch: We also would like to take some things off the consent calendar and add some items. I would like to take IA3, IA4, and all of IB off the consent calendar. And we would like to add the following items. The first one is Non-Ag Pool information requests. Second is payment of fees of counsel and consultants. Third is transcript of January 18 hearing. Fourth is preservation of documents and electronic information. And fifth is transfer of the Non-Ag Pool stored water on the books of Watermaster. We would like that to be on the agenda for the Non-Ag Pool.

Ken Jeske: Right, I was going to say that, that's not pertinent to the Appropriative Pool meeting although, the Non-Ag Pool

Allen Hubsch: So perhaps it should be at the end.

Ken Jeske: So that would be that request and I take it it's coming from counsel of the Non-Ag Pool. Is that an official action yet or do you need the... I am trying... Well, we are used to a certain format of speakers up here so now we have a new person. I don't know, or I believe I know, who he represents, I am not sure everybody at this dais or in the room does. So it probably would be good to identify who is speaking, and on whose behalf, and if you need to take action maybe you need to make it very clear what pool agenda and then...

Bob Bowcock: Okay, we.....

Ken Jeske: And then it may be necessary just looking at the audience. I was just talking to some reps for one of the Non-Ag Pool members that it might be good to make sure we get a roll call of who is here and not here of the Non-Ag Pool.

Bob Bowcock: We can either do the roll call or I think everyone signed in with Sherri Lynne. It's whatever the group preference is.

Ken Jeske: I know since the request is for minutes and transcripts, I just want to make sure you know.

Bob Bowcock: Correct. Thank you.

Mark Kinsey: I would have one question: is that we follow provisions of the Brown Act and these are items being requested to be added and my understanding of the Brown Act is urgency items. Now is the Non-Ag Pool free to do that?

Allen Hubsch: These are all discussion items. They are not items that the pool will be asked to act on.

Members: Talking that can't be heard clearly enough to write down.

Bob Bowcock: And insomuch as for the record, um, the counsel verbalized the request, um, as the chairman of the Non-Ag Pool I will make that request as stated by counsel. That's it, it's official.

Mark Kinsey: Okay for the Appropriative Pool we have consent calendar items IA, B, and C – do I have a motion to approve.

*Appropriative Pool: Motion by DeLoach, second by Crosley, and by unanimous vote
Moved to approve Consent Calendar item A2, A3 through C, as presented*

Bob Bowcock: I think we are going to sort of a...

Ken Jeske: Now item 4A. When you said A, Mr. Chair, item 4 is not is not an Appropriative section item A4 so the Appropriative Pool did want...

Bob Bowcock: Yea, you got to remove my stuff from yours.

Ken Jeske: And the Appropriative committee part of it, which is what...

Bob Bowcock: Yes, right, yes. Now, my turn?

Mark Kinsey: Yea.

Bob Bowcock: Okay we are going to lob back and forth and hopefully we will get it right. Um, counsel has removed the items as stated, um and um, I will let him articulate his position on those.

Allen Hubsch: All right, with respect to the minutes of the Non-Ag Pool meeting on January 7th, ah, we have concern that the minutes are not accurate. We have asked for a tape recording, a copy of the tape recording of the January 7 meeting, ah, we understand that tape has been destroyed. Um, the share of the Appropriative committee just mentioned that the, um, this body is subject to the Brown Act. Ah, the Brown Act requires recordings be maintained for a minimum of 30 days before they are destroyed. Um, we would like some questions of staff regarding the destruction of that tape. We would like to know when that tape was destroyed.

Ken Manning: I am not sure. I will be honest; I do not know the exact date. It was as soon as the minutes were produced.

Allen Hubsch: And when were the minutes produced?

Ken Manning: I don't have that in front of me exactly.

Allen Hubsch: Who would know when the minutes were produced?

Ken Manning: I would have to consult with my administrative assistant. Although, I think she has provided some information. I do not have that information. I can get that to you.

Allen Hubsch: Is there somebody present who would know?

Ken Manning: My administrative assistant is the one who handles the minutes.

Allen Hubsch: And who's that?

Ken Manning: That would be Sherri Lynne Molino.

Allen Hubsch: Can we ask her?

Michael Fife: We would have to look into this. This is not a deposition. I mean, we will look into it and we will have an answer for you.

Ken Manning: We will get you an answer.

Allen Hubsch: We have been asking actually for a week now about that tape.

Robert DeLoach: You will get your answer; thank you staff.

Allen Hubsch: This is an item from the Non-Ag Pool.

Mark Kinsey: Yea.

Michael Fife: I will give you the same answer. You will get your answer.

Allen Hubsch: Can you tell me when we will get our answer?

Michael Fife: When we have the answer.

Allen Hubsch: How long does it take to get an answer like that?

Michael Fife: I don't know.

Allen Hubsch: Do you get a sense of our frustration in not getting answers to questions like this. Well, I recommend the minutes of the January 7 hearing not be approved based on the fact that, ah, the tape recording was destroyed in violation of the Brown Act. I'd also point out that Mr. Fife has sent me the document retention policy for Watermaster which states that tapes are destroyed after they are transcribed and, ah, is there a transcription available of that tape.

Ken Manning: Minutes are available, which Watermaster has, traditionally, going back as long as I can tell. We have interpreted the policy that was adopted in 1992, and practiced since 1992, and minutes approved by the Overlying Non-Ag Pool since 1992 have been for minutes. Not exact word for word transcription. That we interpret as a term that would be used in court. We interpret that term as minutes and that is the way it has always been at Watermaster – been traditional.

Allen Hubsch: Point out the word transcription in the document retention policy. The minutes. The tape was destroyed before the minutes were approved. The tape was destroyed without a transcript and the tape was destroyed earlier than 30 days after the meeting in violation of the Brown Act.

Michael Fife: The tape was destroyed following transcription. Following 17 years of Watermaster practice to which nobody in 17 years has complained. We followed normal and customary procedure. It's transcribed the way all meetings are transcribed and the tape was destroyed following transcription in the same way every tape for every meeting for 17 years has been done

Allen Hubsch: The fact that something's done wrong for 17 years is not an excuse. Ugh, either a violation of the law or of your own policy.

Ken Manning: Is that an editorial or a question?

Michael Fife: We are not here to be preached at.

Allen Hubsch: Right, but understand my client was preached at in the closed session and told that the Rules and Regulations of this body are essentially a court order.

Ken Manning: So you are divulging what went on in closed session.

Allen Hubsch: My client tells me that he said he would disclose that to his counsel and there is no objection to that during closed session.

Michael Fife: I don't have any recollection of that.

Ken Manning: I don't either.

Allen Hubsch: If the Rules and Regulations are in fact a court order they should be complied with and the Rules and Regulations require that Watermaster comply with the Brown Act.

Michael Fife: No, that's not true.

Allen Hubsch: The Rules and Regulations state that the Brown Act will be followed except as otherwise provided herein.

Ken Manning: Yes.

Michael Fife: And we have a Watermaster policy adopted in 1992 that tells us...

Allen Hubsch: And that policy is not inconsistent; that policy says that the tapes be destroyed after a transcription. The Brown Act...

Michael Fife: If the Non-Agricultural Pool would like to change Watermaster's policy then you should make a recommendation to the Board.

Allen Hubsch: We would like Watermaster to follow its policy, not change it.

Michael Fife: Watermaster's staff has followed the proper policy for 17 years.

Allen Hubsch: I would recommend that the minutes not be approved.

Bob Bowcock: Okay, the minutes are going to be unapproved by the Non-Agricultural Pool.

Ken Manning: That's fine.

Ken Jeske: Was that a vote?

Bob Bowcock: Would you like a vote?

Ken Jeske: I don't know. I am just curious how everything seems to be as far as I have heard following the strict rule of some type of rule of order. By keeping the minutes you should probably... At least when I chaired the committees and was working with a different chair of the Non-Ag we were pretty clear about following votes if there was more than one party present.

Bob Bowcock: Inasmuch as the Non-Agricultural Pool is present in number I would call for a motion to, well, to not approve the minutes of January 7 – the Non-Ag portion. Well, the minutes in their entirety as the Non-Ag Pool.

Allen Hubsch: I believe separate minutes were prepared for the Non-Ag portion of the meeting. So the minutes of the Non-Ag Pool....

Bob Bowcock: Correct – correct. Ok if they choose. The motion was made by the Speedway. Call for a second. Second by Steve Arbelbide. All in favor from the Non-Agricultural Pool. The minutes are unapproved.

Non-Agricultural Pool: Motion by Geye, second by Arbelbide, and by majority vote, Ontario vote no

Moved to not approve Consent Calendar item A through B, as presented

Allen Hubsch: The minutes....the next item is the minutes of the Non-Ag Pool meeting on January 18th. I have requested that a transcript be prepared of the January 18th meeting minutes and I have not received a response. Staff did distribute on the table letters that I sent in the last few days to Watermaster staff and that's one of the requests that was made and I have not received a response.

Michael Fife: Let's get the sequence proper. You did not submit these in the last few days; we got them 48 hours ago. Watermaster's practice is that when a party asks for verbatim minutes – we prepare them. So we will prepare them.

Allen Hubsch: So I move then... so I recommend that we wait to hold that item until the next meeting after the transcript is prepared.

Bob Bowcock: Can I have a motion please. The same, second, Steve. The minutes of the 18th are also unapproved.

Non-Agricultural Pool: Motion by Geye, second by Arbelbide, and by majority vote, Ontario vote no

Moved to ask for verbatim minutes for item A1, as presented

Allen Hubsch: Item IB1 and IB5, in particular, of the IB items.

Ken Manning: Are there going to be a lot of questions on the finances, and if there is I am going to ask Sheri Rojo, my CFO, to come up here and sit at the podium so that we can have a more detailed conversation without her having to pop up and down with the microphone.

Allen Hubsch: That sounds fine. I don't know whether she's the person to answer the questions.

Ken Manning: I am certain she is.

Allen Hubsch: She might be. Alright, terrific.

Sheri Rojo: Starting with page 13 of the packet for questions?

Allen Hubsch: Well, I have some questions. I received an email response from Michael Fife yesterday which was not included in the package of correspondence that stated that the Watermaster's procedure for paying for all consultants including outside counsel is that a budget has to be submitted together with the request for payment and that payment is not made until the budget is approved and assessments are levied and collected. And we have some questions about IB1 which is the set of items being paid. Is the cash disbursement... Could you...hopefully this is easy. Can you tell me how many of these payments are for consultants including counsel?

Sheri Rojo: No, I can't. I would have to go through and add them up for you and get that information.

Allen Hubsch: I am not asking for the total amount just which names are consultants or outside counsel.

Sheri Rojo: Consultants or outside counsel and you want how many or you want which ones they are.

Allen Hubsch: Which ones.

Sheri Rojo: Park Place Computer Solutions is a consultant. Applied Computer Technologies is a consultant. I would have to look into Goldman Communications; I am not sure of that charge. James Johnston is a consultant. Brownstein, Hyatt, Farber & Schreck is an attorney. Rauch Communications is a consultant. Reid & Hellyer is an attorney. Black & Veatch Corporation is a consultant. Wildermuth Environmental Inc. is a consultant. And that's what I come up with.

Allen Hubsch: Are all of these consultants, fees, and cash disbursements in line with the budget that has been approved for them?

Sheri Rojo: Yes.

Allen Hubsch: There are no items that are over budget.

Sheri Rojo: No.

Allen Hubsch: On the Brownstein, Hyatt, Farber & Schreck invoice, how is that allocated? I only see one item on the budget. The approved budget is for in the amount of \$10,000.00 dollars. And yet that item appears to be over budget.

Sheri Rojo: Really! Let me take a look at my budget.

Allen Hubsch: It's item 6067 on the budget in the detail.

Sheri Rojo: Oh yea, that's for administrative purposes for general counsel. You need to look in the OBMP section of the budget; more specifically account 6907.3.

Allen Hubsch: And what's the difference between those two account numbers?

Sheri Rojo: One is for administrative legal consulting and one is for Watermaster Board requested work.

Allen Hubsch: And, um, administrative expenses are not Watermaster Board request work?

Sheri Rojo: They may or may not be. We budget.... I think what we normally put in there is if there is any staff issues or things that aren't related to regular engineering stuff.

Allen Hubsch: Well, let's take the \$41,458 dollar payment in December. How is that allocated between these two budget items?

Sheri Rojo: There's nothing in the 6067 account. None of that expense has been allocated to administrative legal.

Allen Hubsch: It's all been allocated to...

Sheri Rojo: 6907.3.

Allen Hubsch: Which is the management plan?

Sheri Rojo: Correct.

Allen Hubsch: So what is the \$10,000 in the administered in expenses for?

Sheri Rojo: The budget line item?

Allen Hubsch: Yea.

Sheri Rojo: As a placeholder in case we need any legal work done for administrative purposes.

Ken Manning: Mr. Chairman, and this is just a suggestion, is that the questions that are being asked are procedural and as a matter of fact we make it a common practice around here to educate people on how Watermaster works all the time. We just got done with a meeting with our new board member. I might suggest that you ask your attorney to make an appointment with us within the next few days. We will be glad to walk through these items with him; on the record or off.

Allen Hubsch: I would be happy to do that but I am getting the sense that we are not going to get the information so we are going through, unfortunately, the demonstration of asking the questions in public so there is no....

Ken Manning: This was just a suggestion.

Bob Bowcock: I intended to intercede as little as possible but for the benefit of the audience that is watching this unfold; there has been a series of emails that have probably led to this activity. Where counsel doesn't feel confident he's going to get the answers to the questions he's been posing because of the responses from counsel. So that's in line with why he is asking the questions the way he is asking the questions. I would encourage us to participate in that process; thank you Ken. And I need to go back and fix something when you are done.

Allen Hubsch: Okay. Um, well, I guess I would recommend not approving the budget or the disbursements on the grounds we need to follow up and get answers to our questions.

Bob Bowcock: Okay, what I will do then based on the recommendation of legal counsel is I will call for a motion not to approve item B1, 2, 3, 4, and 5 at this time until we can get the answers to the questions as they are appropriate and I will call for a motion. I have a first, second, second Mr. Arbelbide. And I will

now call all those in favor aye? Majority ayes. All those opposed? Mohammad El-Amamy, City of Ontario, opposed. Majority carries. The second thing I would like to do is go back and fix what I did before insomuch as this is a new format. I kind of glossed over the last two votes and for that I apologize and will allow Sherri Lynne to correct them. Earlier we had a first and second motion on not approving the minutes of the 7th of January. I won't call for a motion and a second again; however, I would like to reflect a proper count of the vote. I offered those to say aye and many did and those opposed? Mohammad El-Amamy, City of Ontario, opposed. City of Ontario is on record as opposed. Any abstentions? I have no abstentions. And I need to go back and fix the same thing item IA4 the minutes of the January 18th, those were recommended not to be approved by virtue of the fact that the transcript is yet to be prepared. With that I called for a motion and I received a second. A vote was taken; however, I did not allow for the opportunity for no's or abstentions. All those in favor were aye. Opposed? Mohammad El-Amamy, City of Ontario, opposed. Ontario is on record as opposing. Any abstentions? There are no abstentions. Thank you for allowing me to make that correction. That brings us to item IC. Did we pull that?

Allen Hubsch: No.

Bob Bowcock: We did not pull IC so I will turn it back over to my co-chair and allow him to call the remaining items on the consent calendar.

Mark Kinsey: Well, the Appropriative Pool took action with the exception of IA1 and IA4.

Bob Bowcock: Okay, so they are my things, okay. Then the Appropriative Pool will come back in and I will call for a motion on the rest of the consent calendar. We will go with the same first and the same second, all those in favor aye – opposed, none – abstentions, none.

*Non-Agricultural Pool: Motion by Geye, second by Arbelbide, and by unanimous vote
Moved to approve Consent Calendar item C, as presented*

II. BUSINESS ITEM

A. CHINO BASIN WATERMASTER DRAFT POLICY MANUAL

Mark Kinsey: Okay, business item IIA.

Ken Manning: Yea, Mr. Chairman, Watermaster as you know we have made reports back to the Pools, Advisory Committee, and the Board over a number of months now. Watermaster has in its process of trying to streamline the organization and get the documents into one sequence of events and a sequence that allows us to make this organization as efficient as possible and has tried to put together a draft policy manual. As I had mentioned in the staff report, at the same time a group of Appropriators were discussing issues of Watermaster governance. Both of those committees – both the Watermaster staff committee and the Watermaster Appropriator subcommittee on governance ended up merging their products together into this one document that we refer to as the Policy Manual. What we are attempting to do here and Sheri is going to give you a little presentation on it as a summary. We are not inventing anything; what we are trying to put into one folder all of the series of documents that make up what Watermaster does. And with that I am going to turn it over to Sheri and she is going to go through the documents, the PowerPoint presentation that we gave at the workshop on this document and then we can answer questions and talk a little bit more about it.

Sheri Rojo: Thank you. As just a follow up, we had our policy manual workshop January 25th; the policy manual is in your package as a rough draft. I have to tell you I started in 2003, drafting a policy manual but I realized it was a really monstrous task and put it on the shelf and kept dusting it for several years until now when we dusted it off and brought it forward again. To make the policy manual a little bit more manageable, what we did was we broke it down into four sections. The sections are made to be added to over time. The first section deals with purpose of the organization. The second is the governance structure and policies. The third is CEO and office staff policies. The fourth one is financial policies. We have already identified several policies that we would like to add to the manual. And even another chapter that we would like to add as well. So, like, for water transactions type of policies and basic water policies

we have here and how we operate. Now the policy manual's design is a rough draft. It's designed in sections and in pieces, so each policy is a standalone document. So it can be removed, updated, revised, and put back in. And then it is an open ended document to where we can just keep adding policies to that and then staff would also add into it procedures as well as the policy. Now the policies that you have in the document are listed in a table of contents in the front part of it; listed by policy number on page 57 of the document. Now what's important to note is that none of the policies are new in the manual, that the only new policies are the ethics policy to comply with the AB1234 requirement and then we did come up with a surplus policy; we didn't really have one for our old assets. And then some administrative or procedural changes; most notably I think on the minutes will reflect who's actually absent instead of just listing the people who are here. So that was pretty much it as far as new policies. And then all the rest of the documents pretty much articulate what we are already doing and why. We have identified a couple of things that we would like to update internally so as far as there is a document for budgets and it says according to the Judgment, the Judgment reads that we will bring a budget to the Advisory Committee in March and we usually do that in May. It's in the policy now but that is something we would like to bring forward and change in the future. Several members of the Pools and all the different Pools have had a chance to look at the policy manual and several people did show up at the workshop and provided some comment. There has been a couple of comments subsequent to the workshop that deal mostly with some typo's types of things and sometimes we refer to confidential session and sometimes it's a closed session, so for consistency purposes we will go through the document and update that. But the policy manual is in the package for your consideration and comment. And with that I would be happy to entertain any questions.

Mark Kinsey: I would open it up for any discussions from the Appropriative Pool members.

Ken Jeske: Mr. Chair, this effort although started quite some time ago by staff really generated out of discussions. They came up at this level primarily spearheaded by your agency, Monte Vista Water District and Chino Hills on the topic of governance. The Appropriators had a series of meetings on governance and the five year review period. And out of those discussions, determined that having proper protocol policy and procedures, it could fit the needs of doing that review and with that in mind then a draft document was produced, updated by a group of parties to include all of their concerns. I myself even went to couple of Ag Pool meetings and listened to their advice and input. Their Pool and the Non-Agricultural Pool both selected a person to review and provide input into it and that was done. And then it came back to the workshop that was held a week or two ago.

Ken Manning: Yes.

Ken Jeske: Which then puts this document in front of us with the hope that it not only provides good direction for the committees, the Board, and staff to follow, but also good direction on the governance issue that was initially raised five or ten years ago by Ontario and Cucamonga and then re-raised by two other parties. And I think we need to acknowledge also the effort that Doug LaBelle and the City of Chino Hills put in into coordinating a lot of the meetings in getting a lot of the things put together in this. At the workshop it was discussed that we should have an input meeting; schedule the first half of the document which was sections one, two, and three.

Ken Manning: Staff is only recommending one and two. But that's up to discussion.

Ken Jeske: One and two for the first meeting and then three and four for the second meeting. It probably depends on how those discussions go to do it in two parts. Because it was fairly thoroughly gone through so with that it is kind of the framework for doing this. I don't know if the Non-Ag Pool had any further comments. It seems to me there is one thing that I looked at this just in hearing the earlier conversations and that would be in policy 2.8 and in policy 4.15 there is a couple of sections there that deal with tapes and the retention of tapes. At the workshop it was recommended to go with the wording you had before you, that may not be the best way to handle it. It may be better to have a defined period of time in which the tapes are retained; now such as 30 or 60 days at which time they could then be destroyed after minutes are produced and it may be important to clarify the wording. If you intend to transcribe or even to

do minutes, those are two different things; by word but maybe not by practice for 17 years. So that's probably one item that we would as staff to take a look at before it came back.

Ken Manning: Mr. Jeske is correct and there are a number of... that's not the only place where Watermaster in going through this process and some of the parties have pointed out there are some inconsistencies with what is actually something that should occur and staff doesn't disagree with that. It just would be improper for staff to make a judgment about changing policy without having that process go through, so we listed what we have, but I will be the first one to tell you that staff would very much recommend that in the future would change that policy to 30 or 60 days. No problem with that, it is just policy today.

Mark Kinsey: Is there any other questions from any other Appropriative Pool members? What's the pleasure of the group? Is it to take action to adopt the format as well as section one and two or is it just to provide another opportunity for comment and... Dave.

Dave Crosley: Mr. Chairman, I suggest that any action that we contemplate taken today would be limited to format only and that the specific sections of the document come back for consideration and possible action at future meetings.

Robert DeLoach: What are you describing as format Dave?

Dave Crosley: Well...appearance, layout, and numbering.

Robert DeLoach: Okay, I will second that.

Mark Kinsey: I hear a motion and a second to approve only in format. Any Appropriative Pool members opposed? Motion passes unanimously.

*Appropriative Pool: Motion by Crosley, second by DeLoach, and by unanimous vote
Moved to approve the Policy Manual only in format, as presented*

Bob Bowcock: Okay, so that I am clear. We are approving format and I will start out by saying there is a tremendous amount of effort that has gone into this document. Thank you, Ken Jeske for heading that up; we all participated. In light of the fact that, that so many of the rules and regulations and policies and procedures are presently being called into question; it is going to be prudent that we go back and look at some of these things. And I think that is fine and if today we are just approving it as to format, I like the format – I like the way it's laid out and it makes it a whole lot easier for us to delve into. So if that's what we are doing, I would make a recommendation to my committee and then see a motion that we join you in approval of the format so that we have something to work on over the next couple of months so that we get it to be a document that we can all live with. So with that I will seek a motion – okay the same motion maker, my consistent second, thank you sir, all those in favor aye. Any opposed, none and any abstentions, none. Thank you.

*Non-Agricultural Pool: Motion by Geye, second by Arbelbide, and by unanimous vote
Moved to approve Consent Calendar item C, as presented*

B. DR. DAVID SUNDING CONTRACT

NOTE: This item was pulled from the agenda.

Mark Kinsey: Okay, we previously removed Business Item IIB so we are now down to Reports & Updates legal counsel.

Bob Bowcock: Staff, excuse me, would you like to take business items that we added to our agenda at this time or in a different... to me it would appear that this is where you would probably like to see them or would you like to do them....

Ken Manning: That is something between the two chairmen to work out the sequence of events.

Bob Bowcock: They are business items we added to our agenda.

Robert DeLoach: You stated them but I am not sure you took a motion and a second to add them.

Bob Bowcock: I can go back and fix it.

Mark Kinsey: I believe that legal counsel said they would be discussion items really not business items.

Bob Bowcock: We would like to discuss them. I would like to take advantage of the full audience of Non-Ag Pool members while they are here.

Mark Kinsey: As you wish Bob.

Bob Bowcock: Okay, thank you very much. We will go ahead and hopefully we can help Sherri Lynne numerically or what was our quantity because I am going to add them to our agenda as C, D, E, were there five?

Allen Hubsch: Five.

Bob Bowcock: There are five but to start with C and go chronologically from C.

Somebody: That's up to you guys.

Bob Bowcock: Again, thank you.

Allen Hubsch: The first item is Non-Ag Pool information requests and these are requests that were made February 2nd by a letter from me to Scott Slater. I would like to find out the status of some of these items; whether they exist and whether we are likely to see them. The first is the Rules and Regulations of the Non-Agricultural Pool Committee and the Rules and Regulations of the Appropriative Pool Committee. Do they exist?

Michael Fife: Yea, obviously.

Allen Hubsch: And where are they, because we have been asking for them for close to two weeks verbally; which led us to think we needed to put it in writing.

Michael Fife: Okay, I don't recall a request two weeks ago. I think a request was made by CSI's attorney and she got them within 24 hours. I have not had a request from you but we did have a request, as you said two days ago, and we are gathering the information you requested.

Allen Hubsch: Did you get the Non-Ag Pool Committee Rules and Regulations.

Marguerite Battersby: The Non-Ag Pool. That is all I asked for.

Ken Manning: We have never a request for Appropriative Pool rules and regs.

Allen Hubsch: Okay. Um, well then I will get them from Peg that's fine, thank you, the Non-Ag and the Appropriative Pool Committee Rules and Regulations? They exist?

Michael Fife: Yes, they exist.

Allen Hubsch: So, we can presumably, can get them – they are readily accessible?

Michael Fife: Sure.

Ken Manning: In fact they are online, I think.

Robert DeLoach: They are online.

Allen Hubsch: Can you tell me where?

Michael Fife: As are just about everything you have asked for actually.

Allen Hubsch: I have looked but I grant you there is a lot there.

Ken Manning: We will help you maneuver through it when you come in. That is no problem.

Allen Hubsch: Okay. Transcripts of meetings of the Board and Committee – actual transcripts prepared pursuant to the records retention policy. Are there any?

Michael Fife: Yes, and as I have told you, they are all online. You can get them anytime you want. You have asked staff to produce them for you so that you don't have to go online and we are doing that.

Allen Hubsch: That's transcripts of Board meetings?

Michael Fife: All minutes of all meetings – all approved are online.

Allen Hubsch: All approved:

Michael Fife: All approved.

Allen Hubsch: There is a distinct difference between a transcript and a minute. A minute is a summary. I could read you a sentence from a transcript of you speaking to the judge in this matter in which you describe to him that you arrange for transcripts of the court hearings. When you were talking to the judge you seemed to understand what the word transcript means. When you are talking to me, you apparently think that a transcript means a minute – a summary.

Michael Fife: I guess I am not as educated as you. We prepare minutes according to policy.

Allen Hubsch: Okay.

Michael Fife: You have been told that many times.

Allen Hubsch: I'll take that, that there are no transcripts. Um, I have asked for transcripts of court hearings. There are, I admit, transcripts of court hearings on the website but only back to April of 2009 and I would like them back to the Peace II Agreement discussions. And since the December 11, 2009, transcript has you stating that your firm arranges for the preparation of the transcripts, I assume they are readily available?

Michael Fife: Yes, and we are gathering all of them for you.

Allen Hubsch: We have also asked for all invoices from your firm and I assume those are readily available either from your firm or from staff?

Michael Fife: We are considering that request. There are attorney client privilege issues and we will get back to you on it.

Allen Hubsch: And who is the holder of the privilege?

Michael Fife: Our client.

Allen Hubsch: And who is the client?

Michael Fife: The Chino Basin Watermaster.

Allen Hubsch: Okay, well I submit that we are a Pool committee of the Chino Basin Watermaster pursuant to the Judgment and we would like to find out what your position is reasonably quickly on that. We asked for a copy of....

Ken Manning: Are you reading from just the letter you sent.

Allen Hubsch: Yes.

Ken Manning: I just want it noted we have put that letter out for the audience if you want to follow along.

Allen Hubsch: We asked for a copy of the notice that staff says was given of the August 27, 2009, Board meeting from the senders email so we can see who that was sent to. I assume that email still exists?

Michael Fife: The notice – you want our service list?

Allen Hubsch: No, we want to see the email that was sent. We understand that staff claims that notice was given to an email with respect to the August 27, 2009, agenda and that staff sends it read receipts. That staff retains the read receipts and we would like to see who that email was sent to; specifically the people as well as their email addresses to see the read receipts.

Michael Fife: It is sent to the service list. The service list we will...

Allen Hubsch: I don't need an explanation – we want to see the email.

Michael Fife: Okay, if I can't give you an explanation, your request is being considered.

Allen Hubsch: We also asked for copies of the consensus pursuant to which members of the Non-Ag Pool agreed to receive notice by email or a court order pursuant to which Watermaster staff was authorized to give notices by a court order or by email. I assume you are looking at that as well?

Michael Fife: Yes.

Ken Manning: I just want to assure you that Watermaster is going to produce all that stuff for you. The Overlying Non-Ag Pool is an agency or group that we deal with just like we deal with anybody here at Watermaster and so I appreciate your reaffirmation of the request; but Watermaster is going through all of that stuff and I will tell you quite a bit of that is online and we will help you maneuver through that site.

Allen Hubsch: That would be great.

Ken Manning: And you can pull down what you want; but we are producing that information. Just 48 hours was a little too quick to get it to you today.

Allen Hubsch: I understand that perhaps some of it would take longer and I am not sure why, considering how readily available some of it should be; why none of it could be provided. Or none of it could be provided.

Michael Fife: 48 hours and it was not even 48 hours, we got mid-afternoon on Tuesday and this is mid-afternoon on Thursday. Staff has jobs – they have things to do.

Allen Hubsch: I understand.

Micahel Fife: 48 hours is unreasonable to expect this much information. You will get it.

Allen Hubsch: Alright, looking forward to that. Thank you. Unless you have anything else on that item, I would go to the next one.

Bob Bowcock: Please.

Allen Hubsch: The next item is payments of fees of counsel and consultants. And, Mr. Fife, in response to the letter that I sent informing you that our firm had been retained as counsel by the Non-Ag Pool Committee and was looking for its fees to be paid in the same manner as the Ag Pool counsel and Watermaster counsel. You sent back a response that does not seem to be consistent with the way in which the way the fees of the Ag Pool counsel or Watermaster counsel are paid. You suggested that, among other things, the Non-Ag Pool should pay its own fees; it's our understanding that the Ag Pool is not paying all of the fees of its counsel. In fact, that the Non-Ag Pool and the Appropriative Pool are paying the lion's share collectively of the Ag Pool counsel fees. Am I mistaken about that?

Michael Fife: Only to the extent that I believe that the Non-Ag Pool and the Appropriative Pool pay all of the Ag Pool's legal fees.

Allen Hubsch: Well that would be even more than a lion's share wouldn't it?

Several people talking at the same time.

Ken Jeske: I am not sure how you are doing the accounting but the Ag Pool's attorney should be accounted for in the Ag Pool's financial statements and the Non-Ag Pool should be accounted for in the Non-Ag Pool's financial statements. The Appropriative Pool, if they were to hire consultants such as the one that was just postponed to next month (Dr. Sunding), should be shown in the financial statements for the Appropriative Pool. Now there is an agreement called the Peace I Agreement which provides that certain expenses of the Agricultural Pool are paid by the Appropriative Pool but the accounting methods should be similar. There is not that agreement between the Non-Ag Pool and the Agricultural Pool or the Appropriative Pool to pay Non-Ag Pool expenses.

Robert DeLoach: In fact the agreement the Appropriative Pool has with the Ag Pool is approved by the court.

Ken Manning: Right.

Ken Jeske: That's true, and as I say that, keep in mind that I represent Ontario and they are a higher percentage of the Non-Ag Pool than they are in the Appropriative Pool. So as I am listening to this, I guess my recommendation is that we be consistent in the accounting methods.

Ken Manning: Just to make it clear, the response that counsel gave to the attorney for the Overlying Non-Ag Pool, Allen Hubsch, was...he had responded with the policy that Watermaster has for the development of a category, a budget category and budget transfers, and delineated in order for Watermaster to make payment we would need first of all a budget adopted by the Overlying Non-Ag Pool party that outlines to Watermaster how much money it is that we would provide in a special assessment to the Overlying Non-Ag Pool parties, then we would assess those parties and then we would effectuate a budget amendment that would create both an income stream and an expense category within the budget. And then, and only then, would we authorize to make payment. So that is the process we follow that was adopted by Watermaster a couple years that I recall. Sheri wasn't it?

Sheri Rojo: It was last year.

Ken Manning: Early last year.

Allen Hubsch: Well I think our, um, primary concern is consistency. It appears that the Non-Ag Pool for several years has been paying a..... Well, let's put it this way, the Ag Pool's legal fees have been put into the budget and then spread out among all those paying assessments on a volume basis. And so the Non-Ag Pool has been paying the Ag Pool's counsel fees for years and I guess...you know I am not familiar

with all the facts, but it sounds like that was something that was not part of an agreement so it must be just a policy. Because it was only the Appropriative Pool that had agreed to pay those fees. We are asking now to have a treatment that is consistent with the Ag Pool and have our fees included in the budget and assessed on a volume basis.

Michael Fife: To the Appropriative Pool?

Allen Hubsch: Let me ask you this. They, I assume if we, um...seek court review.

Ken Jeske: I think the Appropriative Pool would be willing to enter into negotiations with the Non-Agricultural Pool. Everybody's aware the agreement between the Appropriative Pool and the Agricultural Pool was a two party agreement, and there were gives to the other pool with both regard. So if the Non-Ag Pool wants to enter into negotiations as to what they want to give up in exchange for paying their legal fees that would be up to the committee. And what I am hearing is that they are very open for that discussion. Otherwise, since we are in joint meeting, my suggestion to the Non-Ag Pool would be if they wanted to agendize this for their next meeting or add it to the agenda to talk about how they assess and pay and change their budget and pay the legal fees to the counsel that they asked in a special meeting to represent them. That would be the appropriate way to move forward and keep it within the pool. If you want to try to do an agreement like Peace III between the two Pools, I with all due respect counsel, you probably want to get paid soon. So I would suggest you keep it within the pool and then allow any other discussion to follow and then that way it would be much prompter for your contract and for your payment.

Allen Hubsch: I appreciate that and I've nothing against negotiation. I would say you know what we hear sitting here as the Non-Ag Pool is we get whipped sod both ways. Though the fact the transcripts haven't been prepared for 17 years is precedent. The fact that the Ag Pool's been paid by the Non-Ag Pool for years is not. We not only have to pay the Non-Ag Pool...I'm sorry...our pool not only has to pay the Ag Pool's fees, we have to pay our own. Then presumably when we seek court review...

Ken Jeske: I don't want to argue.

Allen Hubsch: Oh I'm not arguing with you, I'm...

Ken Jeske: It's part of an agreement. It's completely separate from the other issue on procedure precedents on minutes and transcripts. You guys can argue that out but...

Allen Hubsch: Right.

Ken Jeske: But if you want to start talking about payments between pools, as a party that's in both pools, and been around for a while, we know that takes a lot of discussion. I think if you consult with your clients' chair, he can advise you along those regards.

Allen Hubsch: Mr. Chairman, to just point out clarification, if I recall this is just a discussion item and we are not a...

Bob Bowcock: Yea, right we are not taking any action at this time no. I think that counsel is attempting to achieve consistency. It is the consensus of the Non-Ag Pool that we have not been receiving consistency in application of the policy and so as painful as this process seems, it's to seek consistency. So with that I will ask that and we are probably going to debate whether we meet consistently together on a go forward basis at a later time on this agenda. For right now we are meeting together and, you know, we are going to hear these as information items. It will be an item on the next agenda of the Non-Ag Pool.

Allen Hubsch: You ready to move on.

Bob Bowcock: Yep.

Allen Hubsch: Okay, the next item. The transcript of the January 18, hearing, I think we already discussed that in another context. We would like to get a transcript of that hearing. And we understand that it will be forthcoming. Preservation of documents and electronic information; we are preparing a what's called a litigation hold letter that we will be transmitting shortly. There has been various oral requests for the preservation of various things like tapes and that have been expressed by various people, including Peg, and the chairman and other members of the pool; we are basically going to give you a blanket letter that says we would like you preserve everything including electronic information and to the extent that, that requires imaging of computers we are going to ask that you do that. Also we are concerned particularly because of the destruction of the January 7, tape that you will be following what you perceive to be your document destruction policy and not following and not preserving information for um...

Ken Manning: I am confused; are you asking me to follow policy or to do what you have asked?

Allen Hubsch: The law requires that once you are on notice of a controversy, that you stop following your document retention policy and you start preserving documents and electronic information. And we think we have given you adequate notice of the existence of a controversy and in fact, various people have expressed desire for you to start preserving information. We are working on a letter, unfortunately, we couldn't get it out in time but we will get it to you shortly. But this is, um, considered sort of a formal request that you preserve all electronic information and other documents. You are a special master of the court, you have a special duty to maintain information, a you are arguably a local agency and subject to the Brown Act, which also imposes duties – statutory duties for which there are substantial penalties for violation and. in addition, you know there is a dispute pending. So we would ask that...you will be getting a letter shortly but we want to go on record for everybody to hear that we are insisting on the maintenance and preservation of information.

Bob Bowcock: Specific, Sheri, oh do you need to be recognized?

Sheri Rojo: Yes, may I speak? Just to go back and clarify on page 17 of the package there's a notation in here where the Ag Pool expenses are listed and then they are shifted over to just the Appropriative Pool. So I want you to know that the Appropriative Pool is picking up the expenses of the Ag Pool.

Ken Manning: Yes, not the Non-Ag Pool.

Sheri Rojo: Yes, it is not split – someone said that.

Bob Bowcock: Okay, um, on the item that he has just concluded before we move onto the next item. For the benefit of the audience both by...because I know the Non-Ag Pool members that participated in the call on January 18th, have expressed this concern for those of you who that were, um, on that call and for those of you who missed it and then for the benefit of the Appropriators that are present. In that call, because some of the Appropriators participated in the call on the 18th; one of the members of the Non-Ag Pool, it was not myself, another gentlemen requested that the tapes be preserved that were in possession at that time and that was at 9:00 a.m. on January 18th. I followed up with an email requesting in writing at approximately 11:00 a.m. the same day. So the concern is, was the tape destroyed after the request of January 18th, and frankly it's a very serious matter for the Non-Ag Pool and of great concern. And it is a collective because they've all asked that I go on record about that specifically so, I would like to do that at this time.

Allen Hubsch: The next item is the transfer of the June 30, 2007 stored water which is the water that is at issue in the controversy that exists. We have been told verbally that that water has been moved out of the accounts of the Non-Ag Pool members but we have not seen any documentation of that. Um we don't know whether if it's true or not. We are also concerned because we have a period of time of which to bring an action to challenge or seek a court review of actions taken by the Watermaster, and yet we don't know exactly what action has been taken because we've only been told verbally what has happened. We would like to know what has happened to that water, when it was moved, whose account it's in?

Sheri Rojo: If I may, Mr. Chairman....

Bob Bowcock: This is my part.

Sheri Rojo: Okay, Mr. Chairman, each of the checks that were sent to the Non-Ag Pool parties included a reconciliation of what their balance is at the time and what their beginning balance will be on the next Assessment Package so that showed them what their storage account balance as of current. Just to let you know.

Bob Bowcock: When an Appropriator leases from one Appropriator to another Appropriator, when water is assigned from a Non-Ag Pool member to its purveyor its noticed in a, I don't know how many years we say we have been doing it for 19 years that way, in the Watermaster agenda packet. And I believe it's the question of the Non-Ag Pool when was that particular notice of transfer effective?

Mark Kinsey: It was negotiated in Peace II and that's the transfer, the provision, and the process was negotiated in Peace II. So if it's expected to be done like routine transfers that weren't subject to agreements but are...

Allen Hubsch: There were other agreements subject...

Mark Kinsey: If I buy water from Cucamonga, we do a deal, it goes through the process.

Bob Bowcock: There were other transfers associated with Peace II, that when they were...when they actually occurred were noticed just like that.

Allen Hubsch: Yea, our issue is we don't know where that water is, um, who's account it's in, when it happened, we have just been told that the water is no longer in the accounts of the Non-Ag Pool.

Ken Manning: Correct, and Watermaster will provide you with an explanation of the transfer policy. I think Mr. Kinsey just did a good job of providing some of that information, in terms of the way that Watermaster does its transactions. When a transaction, traditionally, when Watermaster feels a transaction was done behind closed doors or between agencies, then we will put that transaction in the agenda and it will be noticed amongst all the parties. When a transaction is done in the daylight and everybody sees it and everybody knows it, there is no need to do that and so in our estimation as staff when we feel that there needs to be provided open and transparent notice, we will provide it, when it doesn't because it's in the form of a court order, we do not. I will provide you a better explanation in writing when I get a chance to write it out, but that is in essence what it is.

Allen Hubsch: Well, that may be the policy but we are still left wondering when did it happen and whose account is it in.

Ken Manning: I will have to get back with you because I don't know...to say it was midnight on a certain day; I'll get back to you with it.

Bob Bowcock: Anything else? Next item or does that conclude?

Allen Hubsch: I would like to return to one item which was the transcripts. We've asked for information about this January 7th tape and we would like the opportunity immediately following this meeting to inspect the computer on which the minutes for the January 7th meeting were prepared.

Ken Manning: You can make that request in writing and we would be glad to accept it.

Allen Hubsch: No, we want to see it immediately following this meeting so there is no chance for destruction.

Michael Fife: Not a chance.

Ken Manning: You can submit that request in writing and we will deal with it.

Allen Hubsch: And I would object to that and I would again suggest that the images of the relevant computer...the computer should be immediately imaged so that there can be no destruction.

Ken Manning: I have asked staff not to change anything on their computers or delete anything on their computers. It is as it was but I am not having you go through their computers. You can submit it but following this meeting you are not going to have that opportunity.

Allen Hubsch: You are going to do more than ask staff not to delete documents.

Ken Manning: I don't have to do...

Allen Hubsch: You have a legal duty once you are aware of the existence of controversy to take action to preserve information including electronically stored information.

Ken Manning: I appreciate that, that's your opinion.

Allen Hubsch: You are on notice.

Ken Manning: Solely duly noted.

Bob Bowcock: Okay I would turn it back to you for item number III.

Mark Kinsey: Okay, I would ask in the effort of being efficient that you keep the next reports or updates both legal counsel, engineering, and staff at a minimum amount necessary.

Ken Manning: We will do that expeditiously.

Mark Kinsey: These are things that will be talked about or seeing in the future so let's keep it very brief.

Ken Manning: We will do that.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Santa Ana Critical Habitat Comment Letter

Michael Fife: So two items critical habitat comment letter; they are due Monday. We are preparing a letter. We have gotten a little bit behind because there have been other waiting matters to address. But we will have a comment letter out. We had previously told you we along with Western MUNI and Riverside asked for an extension; Fish and Wildlife did not grant the extension so comment letters are due Monday. We have seen a draft of the MUNI Western/Riverside letter and we are teeing off of that. We have also put in a request for a hearing. The other item Chino Airport...

2. Chino Airport

Michael Fife: Just to let you know, we are continuing negotiations with the county over the remediation of the plume. We have sent a RCRA Notice of Intent to sue; this was done cooperatively with the county in order to help them deal with their insurance companies. The settlement discussions are very productive and we hope to have something concrete and satisfactory to report to you soon. I am happy to answer any questions.

Mark Kinsey: Any questions? Engineering report?

B. ENGINEERING REPORT

1. Recharge Master Plan Progress Report

Ken Manning: Mark, I have asked him to make a very brief report on progress.

Mark Kinsey: Is this something we are going to see at the Advisory Committee meeting?

Ken Manning: This is just a verbal; this is not a presentation.

Mark Wildermuth: Good afternoon. Let's talk about water for a moment. The Recharge Master Plan is progressing. There is a lot of fundamental engineering work being done now; it's not hydrology, its pipelines, excavation, as we are working all those costs out. What we expect to do is in March, following a board meeting, is to have a final workshop in preparation of the draft report and we are going to present all the financial information regarding this project. Come back and tell you what their yield is, what they cost, and what they cost per acre-foot and again that project requires authorization staff.... We intended to deliver the draft report on April 1st for everyone to take a look at. We expect to do two workshops, one in April and one in May which will not be like the kind we have had which have been more to inform you on technical progress and interim results but more to discuss the whole Recharge Master Plan in one piece. So we can have two months of discussion and then we will be finalizing it, we think, after the main workshop so it can be approved, filed, or whatever Watermaster's process step is before it gets to the court before the end of June. With that I will take any questions.

Mark Kinsey: Any questions of Mark? We are looking forward to seeing it. Mr. Manning.

C. CEO/STAFF REPORT

1. Legislative Update

Ken Manning: I will forgo the legislative update. Very simply...no money!

2. Recharge Update

Ken Manning: Recharge update you have on the back table; well, hopefully you grabbed it. You notice that November and December were both very good months for recharge both in the area of storm water and recycled water. And so are the storms that were supposed to be hitting this last week were not... did not pan out but January I expect is going to be a very good month as well; so just a heads up on that. We have been doing a very good job on that and I want to again thank IEUA, our staff, county, and Conservation District for a great job for getting water into the ground.

3. GAMA Report

Ken Manning: GAMA Report; I had mentioned at the last board meeting that I had just received a copy, I don't have it with me, but the GAMA Report that we had originally talked to you about a couple of years ago that was done by the USGS is now out on the street and I put out on the back table for you, a Watermaster summary of all the findings in there. In essence, there was not anything startling in there, there wasn't anything that we did not know, there wasn't anything in there that we should be alarmed about. It is nice to know that the USGS and their reporting has taken a little more user friendly approach to the way they send out their announcements, in terms of their results. They made it very clear in there that they were not talking about drinking water standards and I thought that was very good. So that was of note. Also, just as a last... today I had asked Danni Maurizio on staff to send out the annual letter that we are now sending out that is asking Appropriators, it will be followed up with a formal letter, letting Appropriators know that we are looking for water to help us in the fulfillment of our cumulative unmet replenishment obligation and if they have water that they would like to sell, we would buy it. In the email it talks about the terms and we will be following that up with a formal letter, but that went out today. You should have received that in your offices. With that, that is all.

Mark Kinsey: Okay. We have informational and newspaper items in your package. Do I have any other Pool Member comments?

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

V. POOL MEMBER COMMENTS

Bob Bowcock: Mine is real short. I will just go on the record requesting a transcript of this meeting.

Allen Hubsch: Is there any confusion about what is meant by a transcript?

Michael Fife: Perhaps you better clarify.

Allen Hubsch: We want what is normally considered a transcript. The same thing that you prepare for the court when you tell the court that you are preparing a transcript.

Michael Fife: Sorry, I have never prepared a transcript for a court in my life.

Ken Manning: We will, in the spirit of what you have asked, do a word for word.

Allen Hubsch: You prepare a transcript of the court proceedings for the court.

Ken Manning: We will be glad to do word for word minutes; you can call it what you want.

Mark Kinsey: Well, okay, a follow up question to that is, is that is going to take time of staff so maybe....

Bob Bowcock: They are not your staff, they are Watermaster staff.

Mark Kinsey: Right, but this situation is, the Non-Ag Pool and their attorney is making a unique request and that is okay but maybe it is best suited to either have you reimburse us for that or have someone else do the transcription for you.

Michael Fife: I will note that the information requests that have come from the Non-Ag Pool will consume a great deal of staff time and most of the documents are available online. The Non-Ag Pool has also requested a verbatim transcript of the January 18th Non-Ag Pool meeting. We did provide them a tape of that meeting already but again, that will consume staff time as well because that was a rather lengthy meeting.

Robert DeLoach: Can we supply them with a tape of this meeting in lieu of transcripts or what we are calling transcripts?

Allen Hubsch: We are happy to get a tape...the problem with the tape is that, um, Sherri Lynne keeps notes of who's speaking and she also understands and recognizes their voices so we actually thought the same thing that we could do a transcript and what we found is we can't; there are too many people speaking.

Ken Manning: So what you are saying is our tapes are no good?

Allen Hubsch: They are only useful to somebody who recognizes the voice and I think that is pretty clearly what I said.

Mark Kinsey: Okay.

Allen Hubsch: I would also say that the Rules and Regulations of Watermaster which we've been informed are the equivalent of a court order to say that Watermaster staff will make all documents and information available for the cost of duplication.

Ken Manning: That is true, we have that policy and I think we revised that policy about two years ago to reflect .50 cents a page.

Michael Fife: Not for parties.

Ken Manning: Excuse me, not for parties.

Michael Fife: We have not suggested we are going to charge you for any of the copies we are making.

Mark Kinsey: Mr. DeLoach you had a...

Robert DeLoach: I think this should be considered at some point... for several years now, we decided because the Non-Ag Pool had trouble getting a quorum that these meetings, that we have joint meetings. In light of the current controversies that exist, it may be best that we separate those into individual meetings. Particularly because the Appropriative Pool stands here unrepresented by legal counsel; Mr. Fife does not work for the Appropriative Pool, he works clearly for the Watermaster Board of Directors. The inference to Watermaster is not the Board, that is the entire process of committees, Advisory Committee, Pools, and Board. So if it needs to be agendized, Ken, to make that happen I would respectfully request that it be done so. If it is as simple as just, from this point forward, having separate meetings then I would recommend so.

Ken Manning: In my recollection of reading, it is simply a request of either one of the Pools to request to have separate meetings, then that is what occurs.

Robert DeLoach: It would be great to come back together and meet again at some point, but in light of where we stand today I think it would be in our mutual interest to have separate meetings. Secondly, related to that, I am not sure how you are going to work out this issue the enormous staff time involved in securing everything the Non-Ag Pool legal counsel is requesting. But on a go forward basis it would seem to me that you, the Non-Ag Pool, may want to retain a court recorder/transcriber whatever the appropriate term is and pay for that service because that is something Watermaster does not do and I have been in this basin since 1989 and we have never done anything like that. If we are going to go down that practice then that is a change obviously. But you may want to consider that.

Mark Kinsey: Okay. I do hear one item that you mentioned Robert, which I think is relevant to the Appropriative Pool and I am... and I would kind of concur with your recommendation to perhaps consider separating the meetings. The Non-Ag Pools' interests right now are different than the Appropriative Pool interests. I concur with the fact there's no legal counsel representing us and it seems like we can conduct more productive meetings if they are separate. I certainly recommend that we consider doing that. Now I would like to think that the Non-Ag Pool would agree to a different time rather than 1:00 o'clock on the first Thursday of the month since there is a lot more individuals associated with the Appropriative Pool so... unless there is any opposition from the Non-Ag, I mean, Appropriative Pool for the time being I think it would be much more productive.

Bob Bowcock: I'll have to concur; we will confer with everybody and kind of see what they want to do.

Mark Kinsey: Okay. I don't hear any concerns expressed by the other Appropriative Pool members. Okay.

Ken Manning: Then go ahead before next month, schedule separate meetings.

Robert DeLoach: Please.

Ken Manning: I'll get together with both chairs to work out times for the meetings.

Mark Kinsey: Any other business before the Appropriative Pool?

Robert DeLoach: Closed session?

Mark Kinsey: Any other business before the Non-Ag Pool?

Allen Hubsch: No other business. There is a confidential session that's on the calendar and it isn't indicated... I'd make a point of order that this is the first time I went back and looked at agendas, this is the first time that the sentence under confidential session possible action reads, "Pursuant to Article 2.6 of the Watermaster Rules & Regulations, a Confidential Session may be held during the Watermaster committee meeting for the purpose of discussion and possible action" in all prior agendas that I looked at anyways it says "Pursuant to Rules & Regulations of the pool committee" and I thought this change was to reflect that they couldn't find those Rules and Regulations. I note that this is actually incorrect because Article 2.6 of the Watermaster Rules and Regulations does not apply to any Pool. In fact, the Rules and Regulations state specifically that there are, that in, that the Pools are supposed to meet pursuant to their own Rules and Regulations. I think what we would like to do is, we assume, this wasn't, you know, doesn't indicate who it was for that we're both in closed session and we are going to be in separate closed session. Is that what you want to do?

Bob Bowcock: Yes.

Mark Kinsey: Yes, that is fine. As far as the Appropriative Pool there is two items there. We would reverse the order and talk about the FTI contract first and then I would like staff and legal counsel to give us an overview of the recent Non-Ag Pool motion; how it fits in with the Judgment, and after you do that then we request that you leave so the Appropriative Pool can have deliberations and talk about possible approaches.

Ken Manning: Very good. Sheri, could I ask you to work with the Overlying Non-Ag Pool chair in finding a location for them to hold a closed session?

Sheri Rojo: Sure.

Mark Kinsey: Alright. Now the other part would be is, given that we may adjourn at different times, certainly we don't want to wait an hour or two or how long you are going to be, nor do I think you want to wait for us.

Bob Bowcock: If we take any action we will give it to her, and if we don't we will give her the time.

Mark Kinsey: So the meetings will be adjourned separately.

Someone: Okay – okay.

Bob Bowcock: Well, you can adjourn and then I will ask you another question. It doesn't need to be on the record.

Mark Kinsey: Okay. We can't adjourn until after the closed session.

Bob Bowcock: Oh, so you are just going to go into closed session?

Mark Kinsey: Yes.

Bob Bowcock: Michael's coming into your closed session to do what?

Mark Kinsey: Just to give an overview of a motion and to discuss affects of the Judgment and then I am going to ask him to leave for that specific reason.

Bob Bowcock: Okay.

Mark Kinsey: Michael, do you think it is necessary to clarify (Recording secretary can't understand what Mr. Kinsey is saying)

Michael Fife: Sure, are we still on the record? Okay, this is to clarify the role of staff and legal counsel in the closed sessions. There are two items on the Appropriative Pool closed sessions; one is the FTI contract, that is the auction administrator; the Appropriative Pool did request that since Watermaster did all of the initial discussions with the auction administrator and worked with them that we give a report on those continuing discussions. We intend to do that. And then we have also been asked to give staff and legal counsel's factual perspective on what is going on with the Non-Agricultural Pool. Staff and legal counsel represent the Board; we do not represent the Appropriative Pool. It is not appropriate for us to give advice or have strategic discussions with the Pool, and so once we have given our factual perspective, the perspective of staff, and answered any questions, it would our intention to leave the meeting so that the Appropriative Pool can have whatever strategy discussion they want to have.

Allen Hubsch: Yeah, I'd like to comment on that. There was discussion that, you know, having transcriptions for the benefit of the Non-Ag Pool maybe should be paid for by the Non-Ag Pool. I can foresee that a significant amount of staff and counsel time is going to be devoted to opposing the Non-Ag Pool, essentially, for the benefit for the Appropriative Pool. So we are going to start doing benefits analysis of different administrative expenses. We are going to have to consider, um, yeah, it's going to be very difficult, as I am sure everybody appreciates.

Mark Kinsey: Any other comments before the Appropriative Pool goes into closed session? I would ask that the Non-Ag Pool maybe locate....

Ken Manning: Yes, Sheri will find one of the two rooms either the Auxiliary or Conference room.

Bob Bowcock: Why don't we go in the big one?

The regular open meeting was convened to hold its confidential session at 2:20 p.m.

VI. OTHER BUSINESS

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

Pursuant to Article 2.6 of the Watermaster Rules & Regulations, a Confidential Session may be held during the Watermaster committee meeting for the purpose of discussion and possible action.

1. Overlying Non-Agricultural Pool Water Sale
2. FTI Contract

The Appropriative Pool closed session was convened at 3:10 p.m.

Mark Kinsey: The Appropriative Pool came out of closed session at 3:10 p.m. for items VII 1 and 2, there is no reportable action taken. Meeting adjourned.

Bob Bowcock: Called the Non-Agricultural Pool meeting back into order at 3:09 p.m. no action was taken, the meeting is adjourned to 1:00 p.m., January 11th via teleconference.

Michael Fife: January 11th – you mean February?

Bob Bowcock: Yeah, it's literally one week from today – 1:00 on Thursday to 1:00 on Thursday. And we will prepare an agenda and send it to you. Anyone opposed?

VIII. FUTURE MEETINGS

February 4, 2010	1:00 p.m.	Joint Appropriative & Non-Agricultural Pool Mtg. @ CBWM
February 11, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
February 18, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
February 18, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
February 25, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

Meeting Adjournments: (see above)

Secretary: _____

Minutes Approved Appropriative Pool: May 13, 2010