

Minutes
CHINO BASIN WATERMASTER
APPROPRIATIVE POOL MEETING
September 2, 2010

The Appropriative Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on September 2, 2010 at 1:00 p.m.

APPROPRIATIVE POOL MEMBERS PRESENT WHO SIGNED IN

Mark Kinsey, Chair	Monte Vista Water District
Josh Swift	Fontana Water Company
John Mura	City of Chino Hills
Mohamed El-Amamy	City of Ontario
Raul Garibay	City of Pomona
Marty Zvirbulis	Cucamonga Valley Water District
Tom Harder	Jurupa Community Services District
Dave Crosley	City of Chino
Ben Lewis	Golden State Water Company

APPROPRIATIVE POOL MEMBERS PRESENT WHO SPOKE AND DID NOT SIGN IN

Anthony La	City of Upland
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Watermaster Staff Present

Kenneth R. Manning	Chief Executive Officer
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Joe Joswiak	Chief Financial Officer
Janine Wilson	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Scott Slater	Brownstein, Hyatt, Farber & Schreck
Andy Malone	Wildermuth Environmental Inc.

Others Present Who Signed In

Jill Willis	Best Best & Krieger
Shaun Stone	City of Upland
Rick Hansen	Three Valleys Municipal Water District
Chuck Hays	City of Fontana
Steven G. Lee	Agricultural Pool Legal Counsel
Jack Safely	Western Municipal Water District
Terry Catlin	Inland Empire Utilities Agency
Ryan Shaw	Inland Empire Utilities Agency
Eunice Ulloa	Chino Basin Water Conservation District
Ron Craig	City of Chino Hills
Roger Han	Praxair
Bob Bowcock	Vulcan Materials Company

Chair Kinsey called the Appropriative Pool Meeting to order at 1:00 p.m.

AGENDA - ADDITIONS/REORDER

There were no additions or reorders made to the agenda.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Appropriative Pool Meeting held August 5, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of July 2010
2. Watermaster Visa Check Detail for the month of July 2010
3. Combining Schedule for the Period July 1, 2009 through July 31, 2010
4. Treasurer's Report of Financial Affairs for the Period July 1, 2010 through July 31, 2010
5. Budget vs. Actual July 2010 through July 2010

Motion by El-Amamy, second by Zvirbulis, and by unanimous vote

Moved to approve Consent Calendar item A and receive and file item B, as presented

II. BUSINESS ITEMS**A. AUCTION OVERSIGHT SUB-COMMITTEE**

Mr. Manning noted there is a handout for reference on this item on the back table which reviews the purchase of the Non-Agricultural Pool water. Mr. Manning summarized the history regarding the water auction. Mr. Manning stated staff is seeking a motion to form an Auction Oversight Sub-Committee to begin dialog regarding the water auction now that the Paragraph 31 Motion was denied by the court, even though there has been an appeal filed. A discussion regarding the auction sub-committee and the special assessment to collect monies regarding the second increment payment for the purchase of the Non-Agricultural water ensued. Mr. Manning stated he recently spoke with Harold Lea and Mr. Lea is willing and available to assist in the water auction process. Chair Kinsey inquired about the appeal process. Mr. Manning stated counsel and staff has no idea how long the appeal process will take and noted it could take several years to come to fruition. It was noted it was a good idea to put together a sub-committee with regard to the water auction; to reconvene the previous members and/or formulate a new group.

Motion by Crosley, second by Mura, and by unanimous vote

Moved to approve forming an Auction Oversight Sub-Committee, as presented

B. ASSESSMENT FOR REGIONAL BOARD ACL FINE

Mr. Manning stated during the development of the budget for this fiscal year, Watermaster staff had included within the initial cut of the budget the amount necessary to cover the fines that were included in the ACL Complaint from the Regional Water Quality Control Board (RWQCB) in the amount of \$228,000; Watermaster's portion is half that amount. Mr. Manning stated during the budget workshop the Appropriative Pool asked staff to pull the item from the budget and make it a special assessment that would be presented to the Pools in the first few months after the new fiscal year began. Mr. Manning stated at the request of the Appropriative Pool members staff has included this item being presented in a variety of different ways that the fine could be paid. Mr. Manning stated staff has put together a spreadsheet with five options, which is available on the back table. Ms. Maurizio reviewed the analysis in detail. A lengthy discussion regarding the options and this matter ensued. Mr. Manning discussed the possibility of others voluntarily participating in this process. Mr. Manning noted this item is to begin discussions and to begin the process. Mr. La inquired if Inland Empire Utilities Agency (IEUA) has agreed to pay 50% of the original fine. Mr. Manning confirmed IEUA has agreed and noted Watermaster and IEUA have delivered checks to the RWQCB for the first portion of the fine and the second portion is the SEP Program which is being administered by IEUA. A discussion regarding option no. 5 ensued. Chair Kinsey inquired about the original schedule. Mr. Manning commented on the original schedule which was provided to the RWQCB and adopted by Watermaster; however, was not adopted by the Chino Desalter Authority (CDA). Mr. Manning stated a revised schedule was provided to the RWQCB and noted this time it was adopted by the CDA. Mr. Manning stated he has met with the RWQCB in an effort to keep on the track with the new schedule. The parties have agreed to meet with the RWQCB on a quarterly basis. The report given to the RWQCB during that meeting showed the parties are on schedule.

Mr. Manning stated Mr. Slater and he are working very closely with the CDA group to get the last few issues resolved and they are confident the issues will be worked through. The RWQCB is pleased with the result. Chair Kinsey offered comment on the fine and delays. Mr. Manning stated Watermaster is working with the parties to achieve goals and is working hard to resolve issues regarding this matter so it can move ahead expeditiously. An inquiry regarding the new schedule was made. Mr. Manning stated to ensure the RWQCB the schedule is staying on track, quarterly meetings between Watermaster, IEUA, and the RWQCB have been scheduled. Mr. Manning stated if there is a time where there may be a delay in the schedule, it will need to be explained to the RWQCB and it appears the RWQCB will be cooperative in working with Watermaster, IEUA, and the CDA in a revision to the schedule if necessary. A discussion regarding another potential fine due to scheduled delays ensued. Mr. Manning stated all the members of the CDA are members of Watermaster including Western Municipal Water District who is not a member of the Appropriative Pool and there are no agreements that assign any party to any future fines; Watermaster and IEUA are the holders of the permits. Mr. Manning noted the revised schedule was adopted by the CDA. A lengthy discussion on how the new schedule was developed, assessable amounts assessed to each party, and Carollo Engineering's role ensued. It was noted the parties are not ready to give direction on this matter today. Mr. Manning stated Watermaster has no option other than what it is allowed under the Judgment in terms of providing assessments; this is a legitimate claim against Watermaster and Watermaster has paid the fine and will pay the SEP fee. These costs need to be recovered in the process of preparing Watermaster accounts. A discussion regarding the ACL fine which was incurred due to a delay in the schedule and responsibility ensued. Chair Kinsey inquired if there were any parties that want to volunteer to be involved in the negotiations with the CDA members. Chair Kinsey recognized Cucamonga Valley Water District, City of Upland, City of Chino, City, and the City of Pomona. Mr. Manning stated Watermaster staff can be of assistance in providing numbers and analysis. Chair Kinsey stated the goal would be to have something worked out by the October Appropriative Pool meeting. It was noted Watermaster can delay the assessments until this is worked out.

No action taken.

C. PEACE II AGREEMENT AND PHASE III DESALTER EXPANSION

Mr. Manning stated Mr. Slater will be presenting/discussing this item which will build off the discussions regarding the CDA on the previous item. Mr. Manning stated as decisions are being made by CDA members, there are assurances they are looking for from Watermaster parties that will act as a foundation for their decisions as they move forward. The resolution is in its initial form and as it has evolved, it attempts to restate the history of what has taken place and restate the commitments of Watermaster and the Watermaster parties in a way to put on the record all the activities that are all shared and responsible for. Mr. Manning noted the staff report in the meeting package is similar to the one presented to the Watermaster Board which asked for a workshop regarding this matter be scheduled and also to vet the Water Purchase Sale Agreement and the draft Resolution through the Watermaster Process; the Board approved those recommendations and the workshop is set for September 14, 2010 at 10:00 a.m. Mr. Manning stated testimony will be given at the workshop by Mark Wildermuth, Andy Malone, and others, as necessary to solidify the comments made within the resolution. Mr. Manning stated staff is not seeking action today; this is an opportunity to offer comment and for Mr. Slater to review the materials in detail prior to the workshop. Counsel Slater stated the workshop will be to take input and to have findings that are supported by substantial evidence prior to the Watermaster Board taking action. This will then be filed and presented to the court at a hearing. Counsel Slater stated at the workshop he will review Watermaster's control over this project and process; re-identify what the control points are, review the concepts of the desalters and the 40,000 acre-feet of desalting capacity, the OBMP goals which were later put into the OBMP Implementation Plan and Agreement. Counsel Slater stated with regard to the desalters, there was a global commitment to complete a certain level of desalting by a time certain, which was presented to the court as an agreement. Counsel Slater reviewed that agreement which is the original Peace Agreement; that was the Chino I Expansion and Chino II

authorized. Counsel Slater noted the original desalter was owned by Santa Ana Watershed Project Authority (SAWPA) and Project Committee 14 which was later transferred to the present CDA members; all parties signed up for future desalters. Counsel Slater reviewed the original benefits from desalting/desalters including a commitment to do another round of desalting. Counsel Slater discussed the process and issues regarding future desalting. Counsel Slater stated the Resolution captures all issues, internal to the CDA and the Expansion Group, because they no longer have any further issues among themselves; they are embodied now in the Water Purchase Agreement. There are still smaller agreements and items that have to come along with that; however, they are workable and should not hold the process up. Counsel Slater stated while in the process of working out the other agreements/items, other additional issues were identified which involve both the CDA and Watermaster. Counsel Slater stated Watermaster's primary interest is to construct the desalters which meet the courts' obligation and all the parties have an economic and stakeholder interest as well. Counsel Slater commented on Hydraulic Control, locations of wells, having no material physical injury, and the applications to avoid subsidence. Counsel Slater stated Watermaster must make legal findings in order for this project to proceed. Counsel Slater stated Watermaster must make legal findings in order for this project to proceed. Watermaster is going to need evidence to demonstrate what is being done to effectuate the purpose of the OBMP. Counsel Slater discussed the Chino Airport plume, how contamination will be addressed, unexpected costs, and the CEQA process including what the mitigation responsibilities are going to be. Counsel Slater stated there are a number of issues which are embedded in the Resolution; it's a template and it has not been signed off by the Watermaster Board; however, it has worked its way through the CDA process. Counsel Slater stated once all the conclusions transpire, a pleading will be drafted which will go to the court. Counsel will ask the court for the same direction that has been requested in all other instances and Watermaster will receive an order to proceed. Counsel Slater noted there is one particular control point which needs to be presented to the Appropriative Pool, which is that counsel and staff have been very careful not to negotiate and to only facilitate and bring issues forward in a way that does not change or modify any prior agreement. What is being presented, as far as the Watermaster is concerned; this is a restatement of things that have already been agreed to. Counsel Slater offered comment regarding WMWD's potential benefits while not being a part of the Appropriative Pool and noted their decision to potentially intervene has no outcome on the finances of the present deal. The Appropriative Pool is unilaterally responsible for all of the unfunded replenishment for both the existing and the future desalters. The Appropriative Pool will need to make a finding as a predicate for completing the exercise. Mr. Manning offered additional comments on this matter and noted this will not be the only opportunity for comments and/or questions; the workshop is scheduled for September 14, 2010. A discussion regarding the judicial setting for the process, the resolution process, and the possibility of losing Max Benefit ensued. Chair Kinsey encouraged all members to forward the documents to their counsel for review.

No action taken.

D. AUTHORIZATION TO ASSESS APPROPRIATIVE POOL MEMBERS FOR NON-AGRICULTURAL WATER PURCHASE

Mr. Manning stated item D is an outgrowth of item A and staff does need authorization to assess the Appropriative Pool the amount necessary to make the second payment to the Overlying Non-Agricultural Pool. This action could be taken today or as an outcome of the committee which was formed during the discussions of item A. Mr. Manning noted a handout has been given to the parties which explain the payment schedules, including the responsibility of each Appropriative Pool members toward that payment. Mr. Joswiak reviewed the past assessment regarding this item and reviewed the spreadsheet in detail. Mr. Manning noted the payments to the Non-Agricultural Pool must stay on schedule. A discussion regarding this matter ensued and it was decided this item will be deferred until after the closed session today.

Motion by Crosley, second by La, and by unanimous vote

Moved to defer action until after the closed session today, as presented

III. REPORTS/UPDATES**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**1. September 24, 2010 Hearing

Counsel Fife stated there is a hearing scheduled for September 24, 2010 at 10:30 a.m. which is going to include two items; 1) Motion for a Judgment Amendment by the Non-Agricultural Pool, and 2) Approval of the Recharge Master Plan. Counsel Fife stated during a recent hearing with Judge Reichert, he did indicate he would be interested in an educational hearing such as one provided to previous judge and suggested the September 24th hearing would be a good time to start that process. Counsel Fife stated the intention is to present testimony in the same nature as information was presented to Judge Wade. Counsel Fife stated Andy Malone will give a presentation regarding recharge, how it works, what it is all about, what the Chino Basin is all about, supplemental water, and all the issues that would work into the action Judge Reichert has to take on the Recharge Master Plan.

2. Non-Agricultural Pool Appeal

Counsel Fife the Non-Agricultural Pool has filed their Notice of Appeal which has been followed up by the procedural items such as designating the record. Once all the procedural items have been completed and fixed, the Court of Appeals will provide a schedule which will include the opening brief by the Non-Agricultural Pool, any responses, a responsive brief from the Non-Agricultural Pool, and then the actual hearing. A discussion regarding the Non-Agricultural Pool filing and the notice that was sent by the Appellate Court to the Non-Agricultural Pool, giving them 15 days to provide the missing items ensued.

Added Comment:

Mr. Manning noted Item B1 and C3 will be given at the end of the CEO/Staff Report so that counsel and some Watermaster staff can attend the Non-Agricultural Pool meeting.

B. ENGINEERING REPORT (Note: This item was taken out of order and presented after Item C5)1. Basin Plan Amendment Update

Mr. Malone stated he is going to provide background on information on the 2004 Basin Plan Amendment and the upcoming 2011 Basin Plan Amendment. Mr. Malone reviewed a map of Current Hydraulic Control Surface Water Monitoring in detail. Mr. Malone offered comment on the 2004 Basin Plan Amendment. Mr. Malone reviewed a map of Current Hydraulic Control Groundwater Monitoring in detail. Mr. Malone offered comment on the upcoming 2011 Basin Plan Amendment which is currently being worked on.

C. CEO/STAFF REPORT1. Legislative Update

Mr. Manning stated legislatures are working hard to get the last few pieces of legislation through prior to the August 31st deadline. Mr. Manning reviewed some of the bills of interest to the Chino Basin. Mr. Manning offered comment on the state budget; however, they did go through the protocol in submitting a republican and democratic budget and neither one of them felt they had enough votes to get either one of them through; they didn't. Mr. Manning stated the democrats want additional taxes and the republicans want no taxes; it appears with this being an election year, the chances of getting a budget before November is very unlikely. Having no budget means there will be a great deal of trauma in the state of California which is unfortunate.

2. Recharge Update

Mr. Manning stated staff has not been provided the most recent numbers from IEUA for staff to put together its recharge spreadsheet. Staff is anticipating having the spreadsheet by the Advisory Committee meeting.

3. GRCC Recharge Improvement Activities Prior to the Recharge Improvement Implementation (Note: This item was taken out of order and presented After Item B1)
Mr. Pak gave the GRCC Update presentation. Mr. Pak noted the GRCC Committee is meeting on a regular basis. Mr. Pak stated the committee has discussed planning activities that would improve or enhance recharge in the near future which would be of no cost or low cost to the existing budget, or by grants, or other possibilities. Mr. Pak reviewed the Grove Basin's current condition, solutions, and cost and benefits in detail. Mr. Pak reviewed the Etiwanda Basin's current condition, solutions, and cost and benefits in detail. Mr. Pak reviewed the Jurupa Basin's current condition, solutions, and cost and benefits in detail. Mr. Pak discussed the Eastern Drainage Channel current condition, solutions, and cost and benefits in detail. Mr. Pak reviewed the Wineville Basin's current condition, solutions, and cost and benefits in detail. Mr. Pak reviewed the Turner Basin's current condition, solutions, and cost and benefits in detail. Mr. Pak reviewed the North Milliken Grade Separation Project current condition, solutions, and cost and benefits in detail. Mr. Pak reviewed Turbid Water's current condition, solutions, and cost and benefits in detail. Mr. Pak discussed the Total Added Recharge numbers for the presented basins/projects in detail.
4. Peace II Resolution Workshop – September 14, 2010
Mr. Manning stated this item was mentioned during a previous discussion and will be held on September 14, 2010 at 10:00 a.m.
5. Discussion on Closed Session Rules for Policy Manual
Mr. Manning stated this item was mentioned a few months ago and it was noted during those discussions, this item would begin to be worked on directly after the Paragraph 31 Motion was completed. Mr. Manning stated staff has reviewed portions of the Policy Manual regarding closed session rules. There are two portions in that manual that reference meetings of Pools and closed session and/or those kinds of issues; however, before the process begins to revise those rules, Watermaster staff would like to have counsels of each of the Pools meet and get their input. Mr. Manning stated how the rules are currently stated in the Policy Manual; they do not reflect what is presently taking place or what is intended to take place in the future. Staff is seeking clarification and Watermaster has tasked Michael Fife to coordinate a discussion amongst the legal counsels of the different Pools before this matter is brought back through the Watermaster process. Staff would like those discussions to have taken place so that it is correctly presented as to how the new rules will possibly be applied in the revised Policy Manual regarding closed sessions.

IV. INFORMATION

1. Cash Disbursements for August 2010 as of August 25, 2010
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.

The regular open Appropriative Pool meeting was convened to hold its confidential session at 2:53 p.m.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

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

The confidential session was convened at 3:34 p.m.

Motion by El-Amamy, second by Zvirbulis, and by unanimous vote

Moved to authorize Watermaster staff to assess the Appropriative Pool the amount necessary to make payment number 2 from the disposition of water purchased from the Non-Agricultural Pool pursuant to the Peace II Purchase and Sale Agreement, as presented

VIII. FUTURE MEETINGS

Thursday, September 2, 2010	1:00 p.m.	Appropriative Pool Meeting @ CBWM
Thursday, September 2, 2010	2:30 p.m.	Non-Agricultural Pool Meeting @ CBWM
Thursday, September 9, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Tuesday, September 14, 2010	10:00 a.m.	Peace II Resolution Workshop @ CBWM
Thursday, September 16, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, September 16, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, September 16, 2010	11:00 a.m.	Water Quality Meeting @ CBWM
Thursday, September 23, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Friday, September 24, 2010	10:30 a.m.	CBWM Hearing @ Chino Courthouse

The Appropriative Pool meeting was dismissed by Chair Kinsey at 3:36 p.m.

Secretary: _____

Minutes Approved: October 7, 2010