

Minutes
CHINO BASIN WATERMASTER
APPROPRIATIVE POOL MEETING

December 8, 2011

The Appropriative Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on December 8, 2011 at 9:00 a.m.

APPROPRIATIVE POOL MEMBERS PRESENT WHO SIGNED IN

John Mura, Chair	City of Chino Hills
Mark Kinsey	Monte Vista Water District
Mohamed El-Amamy	City of Ontario
Marty Zvirbulis	Cucamonga Valley Water District
Sheri Rojo	Fontana Water Company
Tom Harder	Jurupa Community Services District
Gil Aldaco	City of Chino
Rosemary Hoerning	City of Upland
J. Arnold Rodriguez	Santa Ana River Water Company

Watermaster Board Members Present

Paula Lantz	City of Pomona
Bob Kuhn	Three Valleys Municipal Water District

Watermaster Staff Present

Danielle Maurizio	Senior Engineer, Interim CEO
Gerald Greene	Senior Environmental Engineer
Joe Joswiak	Chief Financial Officer
Sherri Molino	Recording Secretary

Watermaster Consultants Present

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

Others Present Who Signed In

Scott Burton	City of Ontario
Mike Sigsbee	City of Ontario
Ken Jeske	California Steel Industries
Mike Maestas	City of Chino Hills
Ron Craig	City of Chino Hills
Jo Lynne Russo-Pereyra	Cucamonga Valley Water District
John Bosler	Cucamonga Valley Water District
Justin Scott-Coe	Monte Vista Water District
Van Jew	Monte Vista Water District
Andrew Hausheer	Thomas Harder Company
Craig Miller	Inland Empire Utilities Agency
Chris Berch	Inland Empire Utilities Agency
Marsha Westropp	Orange County Water District
Eunice Ulloa	Chino Basin Water Conservation District
Curtis Paxton	Chino Desalter Authority

Chair Mura called the Appropriative Pool Meeting to order at 9:05 a.m.

AGENDA - ADDITIONS/REORDER

Ms. Maurizio noted Business Item A. needed to be re-agendized to be taken after Business Item E.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Appropriative Pool Meeting held November 10, 2011

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of October 2011
2. Watermaster VISA Check Detail for the month of October 2011
3. Combining Schedule for the Period July 1, 2011 through October 31, 2011
4. Treasurer's Report of Financial Affairs for the Period October 1, 2011 through October 31, 2011
5. Budget vs. Actual July 2011 through October 31, 2011

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

Moved to approve Consent Calendar items A and B, as presented

Mr. Kinsey pulled Consent Calendar items C1 and C2 for separate discussion and motion.

C. REQUEST FOR STORAGE AGREEMENTS

1. **Consider Approval for Notice of Local Storage Agreement** - The City of Upland has submitted an application for a Local Storage Agreement for 9,500.000 acre-feet to be placed into a Local Supplemental Storage Account. Date of Application: November 29, 2011
2. **Consider Approval for Notice of Local Storage Agreement** - San Antonio Water Company has submitted an application for a Local Storage Account for 2,000.000 acre-feet to be placed into a Local Supplemental Storage Account. Date of Application: December 1, 2011

Ms. Maurizio stated these Storage Agreements were received on November 29, 2011 and December 1, 2011. Ms. Maurizio reviewed the two Storage Agreements in detail. Mr. Kinsey stated he believes the parties all think this is a good opportunity for both of these entities to move water into the Chino Basin for future use; however, there is a pretty clear process that's required which includes a written analysis of Material Physical Injury. Mr. Kinsey stated that analysis is not seen in the meeting package for either one of these agreements. Mr. Kinsey offered comments on the Material Physical Injury Analysis. Mr. Kinsey noted Monte Vista Water District (MVWD) has had a pending application for Local Supplemental Storage since June of 2010 for 10,000 acre-feet. Mr. Kinsey noted he believes other agencies have also submitted applications previously for allocation of supplemental storage space, which is really first come, first served, and in MVWD's case there is all the capabilities of implementing that storage program that is already intact. Mr. Kinsey stated if Watermaster is going to start moving forward with requests and allocate storage space, it is appropriate to handle those all at the same time rather than piece mail them; these two submitted today are really last on that list. Mr. Kinsey stated it is premature to move forward without the Material Physical Injury Analysis. A discussion regarding this matter, the cap on supplemental water, Material Physical Injury Analysis, and how to proceed with this matter ensued. Ms. Hoerning stated the City of Upland has invested a lot of money into the recharge basins and noted she does not want to defer this item for any length of time, and wants the parties/Watermaster revisit this in a timely manner. Ms. Hoerning inquired to Wildermuth Environmental (WEI) regarding the Material Physical Injury Analysis development. Mr. Wildermuth stated provided he can get water quality information, which WEI probably already has, this could be brought back next month through the Watermaster process. Mr. Zvirbulis stated Cucamonga Valley Water District has had an agreement at Watermaster for a number of years for storage and offered additional comments regarding storage, preemptive replenishment, and the Recharge Master Plan, which he thought were all going to be worked on diligently over the next 180 days. A discussion regarding water

already allocated and this matter ensued. Counsel Fife stated it appears this item is getting tied into the 180 day issue which will be discussed later on in the agenda. There are other parties that have their own concerns about that issue to make sure that Watermaster is continuing to move forward and not just sitting back and do nothing for 180 days. Counsel Fife stated there have been comments made that Watermaster continue to move these issues forward and be addressing them aggressively and Watermaster shares that interest. Counsel Fife stated it appears Wildermuth can provide the Material Physical Injury Analysis rather quickly and there also is a need for Watermaster staff's analysis of what is in storage, what the pending applications look like, and a clear articulation of the issues. Counsel Fife offered that this item be placed back on the agenda next month even if all the information has not been gathered to continue dialog. Mr. Kinsey offered a motion for this item. Ms. Maurizio noted the applications that she was aware of at Watermaster presently. Ms. Hoerning added to Mr. Kinsey's motion. Mr. Kinsey stated he would include Ms. Hoerning's comments in his motion. Ms. Rojo inquired if the opportunity to recharge is time sensitive. Ms. Hoerning stated yes. Ms. Rojo inquired if this was for storm flows. Ms. Hoerning stated it is seasonal. Ms. Rojo inquired if this is supplemental water, would this also offset the credit of the 6,500 ace-feet requirement from Peace II. Ms. Maurizio stated yes, that anything that goes into the MZ1 area would count toward that amount; it is a benefit in that regard.

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

Moved to take no action on this item, move this item to the January, 2012 agenda; instruct Watermaster to have a Material Physical Injury Analysis completed for these applications, as well all pending applications, and to bring all of them back for consideration in January, 2012, and to have Watermaster look at the cap of 100,000 acre-feet, and if there is no space available, look into how we do make space available to move forward in a logical fashion by Watermaster staff or Wildermuth Environmental recommendation, as presented

II. BUSINESS ITEMS (NOTE: Business Item A. was moved to be taken after Business Item E.)

A. CHINO BASIN WATERMASTER RESERVES

Ms. Maurizio stated the reserves have been discussed for a few months now in meetings. Ms. Maurizio stated it first came up during the budget process and the questions have been raised by several Appropriators as to how much money is in the reserves, are there excess reserves, and what do we do with them. Ms. Maurizio noted there are other issues involved in this also. Ms. Maurizio stated there are three issues that need to have discussion started today: 1) How does Watermaster handle the reserves with regard to this year's Assessment Package and is staff is going to be doing the Assessment Package in January; Ms. Maurizio stated staff is seeking direction this month on that and this is an immediate need, 2) The issue off excess reserves and what might happen with those funds is open for discussion; and 3) A potential policy development is the third issue, which it appears there is some time for discussion on this last item. Mr. Joswiak gave the Operating Reserves presentation in detail. Mr. Joswiak reviewed the History of Operating Reserves, including several spread sheets on Chino Basin Watermaster Assessment Calculations for various years. A discussion on the presentation and the funds on hand ensued. Mr. Joswiak stated staff needs direction on should the "30/30 Reserve" and the "Funds On Hand" be handled in the same manner as they were during the budget process. Mr. Joswiak stated in addition, some questions for discussion and considerations are: 1) What options are available for the Excess Reserve funds (i.e. kept by Watermaster for future emergency uses, returned to Pool Members based upon some rationale, reduce future assessments, etc.); 2) Developing a policy would provide a uniform practice and does Watermaster need a formal written Operating Reserve Policy; 3) Should there be a separate reserve for the purpose of purchasing Replenishment Water when there are significantly attractive opportunities; and 4) How does Watermaster fund unforeseen expenditures in the future. Mr. Kinsey offered comment on general funds that agencies have placed aside which is unencumbered for various uses. Mr. Kinsey inquired how Watermaster would keep track of how much is related to each agency and offered further comment on methods of tracking this money as to each agencies portion because that is how our funding

mechanism is set up. Mr. El-Amamy inquired about how reserves were used in the past. Mr. Joswiak stated the available cash on hand prior to around 2000 was in various amounts and it was not until 2000 when the reserves have increased. Mr. Joswiak noted he is not aware of any large expenditures that Watermaster used that for, other than for replenishment water. Ms. Rojo noted after the Peace Agreement there was the 6,500 acre-foot replenishment obligation that goes into MZ1, and MWD traditionally had water available during the summer months and even into the fall, yet Watermaster did not get their assessment revenue until December, so Watermaster did need to have cash on hand to buy that water. Ms. Rojo stated there was a decision made early in the early the 2000 time frame when Watermaster expenditures came in significantly under budget which allowed build up of a fund balance. Ms. Rojo stated it was at that time it was decided to stabilize rates and return half of the cash on hand, which kept a small amount of cash on hand for Watermaster to fund the 6,500 acre-foot of water purchase, plus the first six months of operations. Ms. Rojo stated to her knowledge, there has never been a formal Reserve Policy in place and now that the 6,500 acre-foot is gone each individual agency may have replenishment obligations which require different handling. A lengthy discussion regarding Watermaster tracking abilities and monies on hand, and being able to be accounted for by each individual's payment into that account ensued. Ms. Maurizio stated staff needs to go back approximately four years because there were reserves collected until about four years ago and then that policy stopped for several years; staff will go back and review what the parties paid into the Assessments each year. Ms. Maurizio stated not all the Assessments would be looked at for this endeavor, and she offered different examples of what would be looked at for this calculation for the four years. Mr. Kinsey stated what was presented is a good idea. Ms. Maurizio stated if the parties feel this is an appropriate way to handle this matter, then staff will go ahead with this look back. Mr. Joswiak offered comment on the example spread sheet in discussion. A discussion regarding this matter and what has been presented ensued. Mr. Zvirbulis stated there are a lot of moving parts here with regard to allocation and refunding of excess reserves, whether a formal policy should be developed and adopted, purchases of replenishment water and how that is going to be handled, and then unforeseen expenditures in the future, and he noted they are all great questions. Mr. Zvirbulis stated there is a process ready to start dealing with these things and there are respective financial experts at some of our agencies who are interested in working with Watermaster staff to develop the frame work for an appropriate policy that meets Watermaster needs as far as having a six month reserve to meet operating expenses and having some other reasonable component of those reserves, and then working out the details on how money can potentially be distributed and returned that was collected in excess of what's needed to meet reserves. Mr. Zvirbulis offered further comment on his recommendation. Ms. Maurizio stated staff is hoping for action today on how to handle this on this year's Assessment Package because staff does not want to hold up the Assessment Package any further; however, all these other questions presented have time for review and the development of a Policy. Mr. Aldaco stated he would echo the comment in support of Mr. Zvirbulis' statements. Chair Mura asked if someone wanted to make that into a motion for today. Ms. Hoerning asked that Watermaster go back the four years in gathering the data for discussions/review. Ms. Maurizio stated unless staff is directed otherwise, staff will assume to continue with the 30/30 reserve and that the \$200,000 give back that staff planned doing at budget time will bring in the Assessments very close to what was proposed at budget time, again, unless other direction is given on that. Mr. Kinsey offered a recommendation for the Pool's consideration. It was noted the determination of the give back will be going back four years, similar to the table presented today. A discussion on how to reduce the Assessments, including how to possibly either show the credit on the invoice or issue a check back to the parties ensued. After discussion Mr. Kinsey amended his motion and Mr. Zvirbulis seconded the amended motion. Ms. Rojo stated, for discussion purposes, as long as the recharge improvement payment gets calculated separately from the others. Ms. Maurizio inquired if that was for the Assessment Package that is about to be issued, or is staff doing the 30/30 there with the \$2,542.181 give back. Ms. Hoerning stated yes.

Motion by Kinsey second by Zvirbulis, and by unanimous vote

Moved to approved unanimously to have Watermaster move forward with the creation of the Assessment Package and return the current Appropriative Pool excess reserves of \$2,542,181 allocated back to the parties based on the last four years of pro-rata share of the assessment and return it as a credit on their invoice for current fiscal year assessments, and then secondly to have some of the partys' finance officers work with Watermaster staff to come up with a permanent reserve policy at least as it relates to the Appropriative Pool, as presented

B. TURNER BASIN IMPROVEMENT PROJECT AGREEMENT

Ms. Maurizio stated this item is regarding the Turner Basin Improvement Project Agreement and introduced the item in detail. Mr. Greene gave the Cost Sharing Agreement for Turner Basin/Guasti Park Recharge Improvements presentation. In the presentation Mr. Greene reviewed the Groundwater Recharge Projects in detail, including the Bureau of Reclamation Grant with Inland Empire Utilities Agency. A detailed map of the Change in Groundwater Levels from Spring 2000 to Spring 2010 was reviewed. Mr. Greene reviewed the Turner Basin Task Force Summer 2010 as well as the Milliken Grade Separation Project in detail. The Proposed Cost Sharing Agreement and Cost Recovery Projection, and Staff Recommendations were reviewed in detail. Mr. Kinsey inquired about the 320 acre-feet of water and inquired if that was being considered to be new yield or storm flow that would have been captured anyway. Mr. Wildermuth stated he did not prepare that estimate. Mr. Kinsey offered comment on the Recharge Master Plan efforts and the value of the water if it is recharged, which clearly pays for the project in a short period of time. Mr. Kinsey inquired about the capacity needs in MZ2. Mr. Wildermuth stated it fits in very well and offered further comments on this matter. Mr. Kinsey inquired if there is a potential for new yield to be created because of this new project. Mr. Wildermuth stated he did not do this estimate; however, noted there is nothing down below so he would presume so. Mr. Berch stated that this is one of the basins that typically lose storm water through out the storm season and this 320 acre-feet were considered in that calculation. A discussion regarding this matter ensued. Ms. Hoerning offered comment on this project and noted she believes this project will greatly benefit the Chino Basin for many years to come and it appears to be a very cost effective project that should be supported. Mr. Kinsey stated he moves staff recommendation. Mr. Aldaco stated he still had a few questions on this item on the total acre-feet potential for the year of approximately 600 acre-feet. Mr. Greene stated yes; however, to be clear, it may vary as to what water source it comes from year to year. Mr. Berch offered comment on averages and historical data. A discussion regarding the acre-feet ensued. Ms. Hoerning stated the parties should think about funding this project with the excess Watermaster reserves that appear to be on the agenda for discussion today. Mr. Aldaco inquired about funding. Ms. Maurizio stated historically what has been done is Watermaster waited until the end of the year when there is usually some monies left over in an account that can be transferred from. Ms. Maurizio noted one of the financial reports which discuss the \$295,000 of revenue that was received by MWD in August was not expected for administrative fees for administrating the Dry Year Yield; this was not in the budget and was unbudgeted revenue of \$295,000 which can be used for this project. Mr. Kinsey clarified his recommendation for a motion.

Motion by Kinsey second by Hoerning, and by unanimous vote

Moved to approved staff recommendation to enter into a cost sharing agreement between Chino Basin Watermaster and Inland Empire Utilities Agency for the Turner Basin Improvement Project and to pay for this item either from an inter-fund transfer or hold off until the later part of the year and make an adjustment to provide funding for this item, as presented

C. ANNUAL FINDING WITH COMPLIANCE OF UPDATED RECHARGE MASTER PLAN

Ms. Maurizio stated Watermaster is required to make this annual finding that it is in substantial compliance with the 2010 Recharge Master Plan Update; this will be the first one required for Watermaster to do on this plan annually. Ms. Maurizio stated Wildermuth's latest report

indicates there is enough recharge capacity. Watermaster knows there is an imbalance of recharge and discharge that exists in MZ3, and specifically in the Jurupa area. Ms. Maurizio stated Watermaster is working on addressing those issues. Ms. Maurizio stated to show we are in compliance, Watermaster has committed to the process toward implementing the Preemptive Replenishment Program. Mr. Harder inquired about the measure of the criteria in which compliance is measured. Counsel Fife stated there was an attempt to explain that in the Wildermuth report. Counsel Fife noted this is the first time we have made this finding because the Recharge Master Plan was not approved until the end of 2010, meaning 2011 is the first full year that Watermaster has been under that plan as approved. Counsel Fife stated the Peace Agreement does not lay out any specific criteria for the finding; what was looked at was the history behind where this requirement came from. This requirement was an outgrowth of the interaction with the Special Referee and the technical assistant. Counsel Fife offered history on this matter and the Special Referee's report which had a concern of complacency that Watermaster would essentially become hooked on the reoperation water and not be moving forward with developing the recharge capacity of the basin. Counsel Fife stated one of the assurances that was given in terms of Material Physical Injury was that Watermaster would continue to monitor and look very closely at the impacts of basin reoperation, and if the basin was being harmed by this it could be stopped, and it was that ability to halt the program if it was really causing a problem that gave the court assurance that this was something Watermaster could try. Counsel Fife stated this was the lens that Mr. Wildermuth framed his analysis of stopping the reoperation, and if it were stopped, would we have the capacity then to resume normal operations. Counsel Fife reminded the parties of the language in the Peace II Agreement with this regard. Counsel Fife stated Watermaster is acknowledging there are still problems in the Jurupa area which need to be addressed; a process is being set up to address those problems. Counsel Fife stated Watermaster needs to be substantially in compliance in moving forward in the right direction. Counsel Fife stated that is the nature of the finding in Mr. Wildermuth's report. A discussion regarding this matter ensued. Mr. Harder offered detailed comment on this matter and noted Jurupa is still not happy with portions of the Recharge Master Plan. Mr. Harder stated, for the record, from Jurupa's standpoint they will be in support of this report as long as it is known that this is regarding that element of the Recharge Master Plan only. Mr. Kinsey inquired if this is a court mandate that requires annual findings of compliance. Counsel Fife stated no, this is a part of the Peace II Agreement, and the specific section is cited in Mr. Wildermuth's report in section 8.3 of the Peace II Agreement. Mr. Kinsey offered comment on this matter and noted Watermaster is probably in the process of taking a major review at our long term recharge needs, which ultimately may dramatically change the 2010 Recharge Master Plan. Mr. Wildermuth asked that the parties look at page 104 of the meeting package; it basically recites the same conclusion that is in the Recharge Master Plan. Mr. Wildermuth stated the report goes on to discuss the Jurupa concern and the finding does say we have enough capacity to do replenishment if the Riverside/Corona feeder is built. Mr. Wildermuth stated the second qualification was to deal with other parts of the Recharge Master Plan, which were the criteria of the balance of recharge and discharge, and the other deals with falling water levels causing problems. Mr. Wildermuth continued to review the criteria and report. Mr. Wildermuth stated the report acknowledges the fact that numbers are changing. Mr. Wildermuth offered further comment on this item. A lengthy discussion regarding this matter, and the requirements called out in the Recharge Master Plan ensued. Mr. Harder stated the purpose of Hydraulic Control was to create groundwater level decline in the southern part of the basin and that was a result; however, one of the things is that 80% of the replenishment water that was just purchased from MWD went to the west side of the basin. That is not because it was not needed over there; it was that we did not have the infrastructure to take it on the east side. Mr. Harder stated it is purposely out of balance but not to the point of harm; we can't get to the point where it does have an impact. Mr. Wildermuth stated that is what he was trying to say.

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

Moved to approve recommending that the Board adopt the finding in the Wildermuth Report that watermaster is in substantial compliance with the 2010 Recharge Master Plan Update, as presented

D. WEST VENTURE DEVELOPMENT WATER RIGHTS

Ms. Maurizio stated this item was on the agenda last month; however, it was deferred to this month. Ms. Maurizio stated originally this was Red Star Fertilizer, who was an original party to the Judgment and had 15.657 acre-feet of safe yield as a Non-Agricultural Pool party. Ms. Maurizio stated they were then acquired by Anaheim Citrus and then eventually by West Venture Development Company. Ms. Maurizio stated West Venture subdivided the land into approximately thirty three lots and then sold the lots; they abandoned their rights in fiscal year 1991-1992 but the rights have remained unallocated since that time. Ms. Maurizio stated there is correspondence attached to the meeting package in back of the Watermaster staff letter from West Venture. Ms. Maurizio reviewed the West Venture letters. Ms. Maurizio noted the first letter stated they wanted their rights to be allocated to the parties of the Non-Agricultural Pool, pro rata effective to their safe yield; however, in the second letter they stated that it still held true but there was to be notice to the property owners of those thirty three lots to give them an opportunity to object, and then to ultimately proceed from direction from the court. Ms. Maurizio stated nothing has been done with those rights for all this period of time; however, as of about a month or two ago there was a request from the Non-Agricultural Pool to move forward with that and to pro rata divide it out to the Non-Agricultural Pool members. Mr. Kinsey inquired if there has been an accumulation of those rights. Ms. Maurizio stated no, it has not gone into storage, it has just gone into the safe yield; there is no Storage Agreement with any of the entities mentioned earlier. A discussion regarding this matter ensued. Ms. Maurizio stated 15.657 per year has been lost each year. Ms. Hoerning inquired if litigation ends up over this matter, does the Non-Agricultural Pool pay for that or does all the parties pay for that as a general Watermaster issue. Counsel Fife stated there have been questions asked with this regard since the agenda package has gone out as to why it has been put on the agenda as an action item for all three Pools, and it is this kind of issue that led us to seek a recommendation from all three Pools because this is new ground, no one has abandoned rights before. Counsel Fife stated the direction that is being taken, which is sort of a policy direction, is that in this instance where we have clear direction from the water right holder as to what they want done, the recommendation that staff is making is that we follow the direction of the water right holder. That direction was distributed to the other members of the Pool after approval by the court. Counsel Fife stated the reason that they asked for that was because they were concerned that the people they had sold the property to had some kind of rights, and that they thought notice should go to them first and then there be some sort of process so that if they wanted to stand up and insert those rights, they would have that ability; this could result in a process before the court. Counsel Fife stated if those people then fought that and we are then in a litigation mode, it's unclear who would be leading the charge on that fight, which is why Watermaster is seeking recommendation from all the parties. Counsel Fife stated the position Watermaster would be going to the court with would be the right holder told us what to do and Watermaster plans to do just that, and then the court would tell us that is alright to do. Ms. Hoerning stated it looks like the water right holder then stepped back and said that is not ours to give and even though we said give it, we did not own it in the first place, therein lies the issue. Counsel Fife stated correct. A lengthy discussion regarding this matter ensued. Mr. Kinsey noted Justin Scott-Coe worked up a short review of the Judgment and came up with a different path for the use of that water, and he noted he agrees with what Ms. Hoerning stated. It was noted the parties would be interested in hearing the review. Mr. Scott-Coe stated in as far as being able to allocate one's overlying Non-Agricultural Pool right, according to the Judgment overlying rights are individual, decreed to individual right holders of the Non-Agricultural Overlying Pool, and those overlying rights for Non-Agricultural pool use are a total of 7,366 acre feet per year, and are individually decreed for each affected party in Exhibit "D" which provide for individual decreed rights and then they total up, but it's not an aggregate right as the Overlying Agricultural Pool is, it is a very different type of decree of that right. Mr. Scott-Coe stated that finally the Pooling Plan recognizes that the rights here in

decreed are pertinent to that land and are only assigned with the land of the overlying use they're on; there are cut outs after that position that allow for them to transfer amongst themselves or lease their rights; however, there is nothing in there that said they can actually permanently give that right over to another Non-Agricultural Overlying right holder, or to any one else for that matter. Mr. Scott-Coe stated Monte Vista Water District feels we do not believe the reallocation of abandoned overlying rights among Overlying Non-Agricultural Pool members is consistent with the Judgment and that water rights are individually decreed to individual members of the Overlying Non-Agricultural Pool, rather than decreed in aggregate to the Pool collectively. Mr. Scott-Coe stated any non-use of individually decreed rights should revert to the Appropriative Pool as Operating Safe Yield. Counsel Fife stated everything that Mr. Scott-Coe stated was accurate and all good points; however, at the same time the Judgment also decrees an allocation to each of the three Pools, and unlike everything else in the Judgment, sets that in stone. Counsel Fife stated the allocation to each of the three Pools was put beyond the continuing jurisdiction of the court, which means that everything in the Judgment is final in a tentative way, that is the Judge can always come back and change it, except for the allocation to each of the three Pools; even the Judge cannot change that, which is one point. Counsel Fife stated the second point, which created an interesting legal question for these rights is that, at the time that the land owner said to do this it was pre-Peace Agreement and all those provisions were absolutely true that the rights were strictly pertinent to that land and could not be moved from that land; but since then we have had the Peace Agreement and the Peace II Agreement which have modified that appurtenants requirement so that now, an overlying right holder can do that; can move their rights to other right holders within the Pool. Counsel Fife stated there is even a process for moving the water out of the Pool to the Appropriative Pool; this creates a lot of legal ambiguity, which is why, from Watermaster's legal counsels' prospective and one of the directions from the land owner was, get the court to make the final decision on all of this, because they are all ambiguous questions. Mr. Kinsey stated he does believe rights were allocated; however, the Judgment recognizes that the safe yield of the basin may change and may either go up or go down, and water can be abandoned, and it has a location for that abandoned water to move to the Operating Safe Yield of the Basin. Mr. Kinsey stated the Appropriative Pool's right, while it's identified, is subject to adjustment based on what happens to the basin – the Overlying rights are locked. Mr. Kinsey inquired about why the party supplying the water supply to this area, why did not the rights accrue to the entity providing actual water to the homes. Counsel Fife stated that would be one possible outcome of this. Counsel Fife stated why what happened is unclear because it all happened back in the 90's and there seemed to be a lot of process with it at the time, and then they just forgot about it; current staff was not around then and were not made fully aware of this until it resurfaced. Mr. Kinsey offered further comment on this matter. Mr. Jeske stated just for reference, counsel covered much of what he was going to say; however, there are two places in the Judgment, Section 8 and Section 44, where it is redundant in the Judgment and where it locks in the amount of overlying rights in the Non-Agricultural Pool. Mr. Jeske stated, if researched, parties can find similar statements locking in the overlying rights of the Agricultural Pool. Mr. Jeske offered comment on retained rights and noted he is not aware of situations where water is moved out of a Pool inconsistent with the Judgment except for annual transfers from the Agricultural Pool, which is specifically provided for. Mr. Jeske stated in this case, the owner of the rights gave direction, and it is not clear why it was not done in 1992 and Watermaster staff is attempting to clean this up. Counsel Fife stated as mentioned in these discussions, the question is how this item gets framed, because the direction in the Judgment in paragraph 61, states that loss of water rights whether by abandonment, forfeiture, or otherwise, shall be accomplished only by 1) By written election of the owner of the right, filed with Watermaster, or 2) By order of the court. Counsel Fife stated those are the only two ways that abandonment can take place and there is written direction of the land owner is to ask the court for a decision. Counsel Fife stated the recommendation is that counsel will tee it up for the court and Watermaster's position will be to follow the direction of the land owner and then anyone else who wants to argue how it should be done, that will be up to them in front of the court, while allowing the court to make the final decision. Ms. Rojo asked where the well was located. Ms. Maurizio stated within the City of Chino approximately at Schaffer and San Antonio. Mr. Aldaco stated he liked counsel's initial qualifier in that it is new

ground and it warrants considerable discussion and further research. Mr. Aldaco inquired about there being one property owner or there being thirty-three new property owners and offered further comment on this matter.

Motion by Aldaco second by Kinsey, and by unanimous vote

Moved to not proceed with this item until further analysis of this proposal is done, as presented

E. MAILING OF ARCHIBALD SOUTH PLUME WATER QUALITY RESULTS (Information Only)

Ms. Maurizio stated this item is for information only and is regarding the mailing of the Archibald South Plume water quality results. Ms. Maurizio stated this item is for the Agricultural Pool but for clarity put it on all the agendas as information; however, direction on this item will come directly from the Agricultural Pool. Ms. Maurizio stated Watermaster staff has been out taking many water samples including tap and well samples around that plume and many of the owners and users of the wells and taps have requested to receive their results. Ms. Maurizio stated staff is going to ask direction from the Agricultural Pool. Ms. Maurizio noted the Agricultural Pool normally does not allow Watermaster to send results to the users and just to the owners; however, in this case, they might want the information going to the users. Ms. Maurizio stated staff will be asking in what form the Pool wants the information to be sent out also. A discussion regarding the original letter of authorization and this matter ensued. Ms. Maurizio stated Watermaster samples wells all of the time, which is standard; however, in this case there was no formal process and no promises about results.

No motion was made on this information item only.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Update on 180 day deferral of December 17, 2011 Recharge Master Plan Filing

Counsel Fife stated there is a draft pleading on the back table for the 180 day deferral which was directed by the Watermaster Board. Counsel Fife stated, with the Judge preferring Friday's, the next step would be to attempt to get a hearing for after next week's Board meeting so staff can get direction to file the pleading, file it, and then have the hearing. Counsel Fife stated during the process with this regard last month, Jurupa Community Services District (JCSD) expressed real concerns about the pleading, so the draft pleading has been shared with them and we have worked with their staff on the language. Counsel Fife stated JCSD is now okay with this request and they will not be opposing it. Counsel Fife stated if any other party has a problem with the presented language to let counsel know.

2. Aqua Capital Management versus California Steel Industries

Counsel Fife stated this law suit is in a different courtroom than Judge Reichert. Counsel Fife stated California Steel Industries has filed a demur where they have asked the court to dismiss the lawsuit on the basis that the issues have already been ruled on by our court, and then in the alternate, that the case be moved back to Judge Reichert to be in the adjudication courtroom. Counsel Fife stated the hearing on this is December 19, 2011 and Watermaster will attend to be on hand; however, Watermaster is not filing anything at this time.

B. WATERMASTER ENGINEERING REPORT

1. Chino Creek Wellfield Extensometer Location

Mr. Wildermuth stated he is going to report on two items, and one of those is in the Engineering section and one is in the CEO section.

Mr. Wildermuth stated with regard to the Chino Creek Wellfield Extensometer location, which is an ongoing process, and it was reported recently that Wildermuth has been working with the county and the county fell out in their helping us pick a site. Mr. Wildermuth stated we were working with the Agricultural Pool. Frank Brommenschenkel has been trying to help us get a site by working with a private land owner. Mr. Wildermuth stated very

recently the county came back with a proposed site which will now get us back on track. Mr. Wildermuth stated next week there will be more current information on this endeavor.

C. CEO/STAFF REPORT

1. RWQCB Basin Plan Amendment Update

Mr. Wildermuth stated with regard to the RWQCB Basin Plan Amendment Update, Wildermuth Environmental was able to get a draft copy of the language late last week. Mr. Wildermuth stated the Regional Board staff has added something else to the amendment which is unrelated to Chino Basin, which is somewhat problematic. Mr. Wildermuth stated as to the language, as it goes towards the Chino Basin, it's almost perfect and some non-controversial changes have to be made; they are basically working off something Wildermuth prepared a long time ago and things have changed for the scheduling of some modeling. Mr. Wildermuth stated Wildermuth is giving the RWQCB the updates as to the Basin Plan Amendment that was desired. Mr. Wildermuth stated this was an amendment which was to be a special purpose amendment for the Chino Basin Watermaster and Inland Empire Utilities Agency (IEUA). Mr. Wildermuth stated the controversial language they put in there has to do with the definition of incidental recharge of planned recycled water recharge. Mr. Wildermuth stated when he saw that additional language he tried to get a hold of the Regional Board staff; however, they would not return his calls, so he sent an email which went to Watermaster, IEUA, and some of the dischargers telling them that this language does not belong in this Basin Plan Amendment and can be potentially catastrophic. Mr. Wildermuth stated Hope Smythe has recently come back and said she would be willing to pull that language out of the Basin Plan Amendment. Mr. Wildermuth offered comment on the controversial language. Mr. Wildermuth stated Wildermuth staff is going to work hard with Ms. Smythe to take it off and he believes that any additional letters that could go out in support of the removal of this language would be very appropriate and helpful within the next few days. Mr. Wildermuth offered to write a one page draft letter for any party that needs one to apply some pressure other than Watermaster's consultant telling them that and trying to make the point. Mr. Wildermuth explained how the language could affect the other discharges, which could take the process up to months to understand the process. Mr. Wildermuth strongly recommended Watermaster and IEUA write this letter and get it out immediately as well as other parties sending in letters.

2. Recharge Update

Ms. Maurizio stated there are no new numbers for November; however, the new recharge update will be ready for the next Advisory Committee meeting next week. Ms. Maurizio offered the recharge numbers for October.

3. Resolution of Preemptive Replenishment Water Purchase

Ms. Maurizio stated she is very happy to report that since the last Advisory Committee and Watermaster Board meetings Watermaster has signed the agreements with Jurupa Community Services District and with the City of Ontario. Ms. Maurizio stated the City of Ontario agreement was signed very quickly after the Board meeting and they gave a check to Watermaster almost immediately, and in turn Watermaster paid IEUA. Ms. Maurizio noted for your information, the balance due to IEUA was paid in two checks. Ms. Maurizio stated on November 23, 2011 Watermaster paid IEUA in the amount given by the City of Ontario Agreement, and the Jurupa agreement had to go back to their board on November 28, 2011. The next morning they had the check and the agreement to Watermaster and those funds were then taken to IEUA for the last payment on the balance due. Ms. Maurizio stated IEUA had to pay MWD by November 30, 2011, otherwise they were going to pay a late fee – Watermaster did get the monies due to IEUA in time that they did not incur any penalties. Ms. Maurizio stated she attended the actual IEUA board meeting yesterday where Watermaster had officially asked for them to waive our penalties and interest because we paid them late according to their invoice; the IEUA board considered our request and they waived the fees for Watermaster. Ms. Maurizio stated Watermaster now has all of the

agreements needed and has paid IEUA in full for the water and all is good. Ms. Maurizio noted there is a handout on the back table which breaks down the water in further detail.

4. Notice of Availability of Non-Agricultural Pool Water

Ms. Maurizio stated this item is the Notice of Availability for the Non-Agricultural Pool water which starts on page 115 of the meeting packet. Ms. Maurizio stated this is just notification that if any party of the Non-Agricultural Pool parties would like to sell their water out of storage; they need to notify Watermaster by December 31, 2011 via email to Ms. Maurizio. Ms. Maurizio stated the notice is included in the meeting packet as well.

5. Annual and Election Meetings for January, 2012 Reminder

Ms. Maurizio stated this is a reminder that the annual meetings will be in January, 2012 where the elections take place, and the dates are listed in the Future Meetings section of the agenda. Ms. Maurizio reminded the parties that the Board meeting has moved up a week to December 15, 2011 to accommodate the upcoming holiday. Ms. Maurizio stated on that day there will also be a Land Subsidence Committee meeting at 8:00 a.m., and a workshop has been added for the review of 2011 Groundwater Production & Replenishment Projections at 1:30 p.m.

IV. INFORMATION

1. Cash Disbursements for November 2011

No comment was made.

2. Newspaper Articles

No comment was made.

V. POOL MEMBER COMMENTS

Mr. Zvirbulis thanked Mr. Jon Mura on the great job of chairing the Appropriative Pool meetings this past year and noted Chair Mura will also no longer be with the Watermaster family after this year. Mr. El-Amamy stated he will also no longer be with the Watermaster family and this will be his last Appropriative Pool meeting due to his retiring early next year. Mr. El-Amamy thanked all the Pool members, Watermaster staff, legal counsel, and Wildermuth Environmental for the help over the last several years and he noted Mr. Scott Burton will be replacing him on the Appropriative Pool and as the General Manager for the City of Ontario. Mr. Kinsey wished Mr. El-Amamy the best of luck and congratulated him on a great job throughout his career. Chair Mura stated, as Mr. Zvirbulis stated, he will be stepping down as chair and thanked staff, counsel, and especially all of the Appropriators for all the support and help they gave him over the last year; he learned a lot and really appreciated the things that we all go through together. Chair Mura confirmed he will no longer be part of the Chino Basin family; however, he does look forward to working with many of you in the future and wishes you all well.

VI. OTHER BUSINESS

No comment was made.

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.

No confidential session was called.

VIII. FUTURE MEETINGS

Thursday, December 8, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, December 8, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, December 8, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, December 15, 2011	8:00 a.m.	Land Subsidence Committee Meeting @ CBWM
Thursday, December 15, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM

* Thursday, December 15, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, December 15, 2011	1:30 p.m.	Workshop for Review of 2011 Groundwater Production & Replenishment Projections
Thursday, January 12, 2012	9:00 a.m.	Annual & Election Appropriative Pool Meeting @ CBWM
Thursday, January 12, 2012	11:00 a.m.	Annual & Election Non-Agricultural Pool Conference Call Meeting – and at CBWM
Thursday, January 12, 2012	1:00 p.m.	Annual & Election Agricultural Pool Meeting @ CBWM
Thursday, January 19, 2012	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, January 19, 2012	9:00 a.m.	Annual & Election Advisory Committee Meeting @ CBWM
Thursday, January 26, 2012	11:00 a.m.	Annual & Election Watermaster Board Meeting @ CBWM

* **Note:** Watermaster Board meeting date change due to the Christmas holiday

Chair Mura dismissed the Appropriative Pool meeting at 10:45 a.m.

Secretary: _____

Minutes Approved: January 12, 2012