

Minutes
CHINO BASIN WATERMASTER
APPROPRIATIVE POOL MEETING

June 14, 2012

The Appropriative Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on June 14, 2012 at 9:00 a.m.

APPROPRIATIVE POOL MEMBERS PRESENT

Marty Zvirbulis, Chair	Cucamonga Valley Water District
Scott Burton	City of Ontario
Rosemary Hoerning	City of Upland
Raul Garibay	City of Pomona
Ron Craig	City of Chino Hills
Dave Crosley	City of Chino
Justin Scott-Coe	Monte Vista Water District
Van Jew	Monte Vista Irrigation Company
Robert Young	Fontana Water Company
Tom Harder	Jurupa Community Services District
Charles Moorrees	San Antonio Water Company

Watermaster Board Members Present

Paula Lantz	City of Pomona
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Watermaster Staff Present

Ken Jeske	Interim CEO
Danielle Maurizio	Senior Engineer
Joe Joswiak	Chief Financial Officer
Sherri Molino	Recording Secretary

Watermaster Consultants Present

Brad Herrema	Brownstein, Hyatt, Farber & Schreck
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Others Present

David De Jesus	Three Valleys Municipal Water District
Rick Hansen	Three Valleys Municipal Water District
Mike Maestas	City of Chino Hills
Nadeem Majaj	City of Chino Hills
Todd Corbin	Jurupa Community Services District
John Bosler	Cucamonga Valley Water District
Jo Lynne Russo-Pereyra	Cucamonga Valley Water District
Mark Kinsey	Monte Vista Water District
Sandra Rose	Monte Vista Water District
Craig Miller	Inland Empire Utilities Agency
Ryan Shaw	Inland Empire Utilities Agency
Chuck Hays	City of Fontana
Rogelio Mata	City of Fontana
Eunice Ulloa	Chino Basin Water Conservation District
Brian Dickenson	Chino Desalter Authority
John Schatz	John J. Schatz, Attorney at Law
Jim Erickson	Law Offices of Jimmy Gutierrez

Chair Zvirbulis called the Appropriative Pool Meeting to order at 9:02 a.m.

AGENDA - ADDITIONS/REORDER

Mr. Jeske stated there are no additions however; there could possibly be a reorder for the confidential session. Chair Zvirbulis stated the confidential session will take place after Business Item A. so a reorder will be made to the agenda.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Appropriative Pool Meeting held May 10, 2012

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of April 2012
2. Watermaster VISA Check Detail for the month of April 2012
3. Combining Schedule for the Period July 1, 2011 through April 30, 2012
4. Treasurer's Report of Financial Affairs for the Period April 1, 2012 through April 30, 2012
5. Budget vs. Actual Report for the Period July 1, 2011 through April 30, 2012

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – The purchase of 1,000,000 acre-feet of water from Santa Ana River Water Company (SARWC) to Jurupa Community Services District (JCSD). This purchase is made first from SARWC's Annual Production Right, with any additional from storage. Date of Application: May 29, 2012
2. **Consider Approval for Notice of Sale or Transfer** – The lease and/or purchase of 782,000 acre-feet of water from San Antonio Water Company to the City of Ontario. This lease is made first from San Antonio's net under-production in Fiscal Year 2011-12, with any remainder to be recaptured from storage. Date of Application: June 1, 2012

Motion by Moorrees, second by Hoerning, and by unanimous vote

Moved to approve Consent Calendar items A through C, as presented

II. BUSINESS ITEMS**A. MATERIAL PHYSICAL INJURY ANALYSIS**

Mr. Jeske stated this is an application for a Local Storage Agreement by California Steel Industries (CSI) for a facility they have been operating pursuant to Regional Water Quality Control Board (RWQCB) requirements and permits. Mr. Jeske stated this is the Material Physical Injury analysis (MPI) only and not an action on a Local Storage Agreement or recharge; those actions are all being held pending the discussions by the group working on recharge and storage. Mr. Jeske stated once that group comes up with some drafts for procedures and policies then all of the Storage Agreements will come forward. Mr. Jeske stated this is just the MPI analysis similar to the ones that were done for San Antonio Water, the City of Upland, and the City of Ontario recently, so the discussions should strictly be limited to the report on MPI analysis. Mr. Jeske stated Wildermuth Environmental Inc. (WEI) prepared this MPI analysis report, and at the same time WEI contacted the RWQCB regarding their permitting process. Mr. Jeske stated WEI has done a full disclosure of the current conditions of the sites surrounding CSI, but not property owned or operated by CSI. Mr. Jeske stated the RWQCB information was relied on by Watermaster and Watermaster staff in putting together the MPI report. Mr. Jeske stated the Water Quality Control Board Santa Ana Region has stated that they felt that any recharge from that facility was de minimis in terms of its impact on any of the surrounding issues and uses that are pointed out in the MPI report. Mr. Jeske stated with using that information, staff had a recommendation to receive and file the MPI report which does not compromise any party in the future should they believe there is MPI from this project – any party retains its rights to bring the issue up in the future like any other MPI would have.

Mr. Scott-Coe inquired if this was the first application for local storage supplemental storage that is comprised of storm water. Mr. Jeske stated he does not believe it is the first. Mr. Scott-Coe inquired what other storm water applications have been received. Mr. Jeske stated he believes there is one from the City of Upland. Mr. Hoerning stated she could not recall if it included storm

water or not. A discussion regarding the City of Upland's application ensued. Mr. Jeske stated this may be the first one to deal with storm water and it is not yet determined whether it's to be called supplemental water or not; that is not a determination in this action or a determination that has been made yet. Mr. Scott-Coe inquired if the MPI analysis is in response to an application for a local supplemental storage agreement. Mr. Jeske stated that is what it is being called because there is nothing else to call it, but it is not being processed and there is no decision made as to how to categorize it. Mr. Jeske stated we had determined to form a group to begin a discussion on storage which includes categorizing water, and that first meeting took place a few weeks ago where we identified the issues. Mr. Jeske stated we determined to hold off for a few weeks for our next meeting so the Appropriative Pool can get together to determine what they want to do. Mr. Scott-Coe inquired if we know that the water which is captured in this storm water retention basin meets NPDES permits, and if it were not captured there, would it be captured down the stream. Mr. Jeske stated that would be part of the storage agreement and not part of the MPI report. Mr. Scott-Coe stated our concern first is with the MPI report and in not seeing an analysis in the MPI report about the potential that this water was already captured and is, therefore, part of the safe yield of the basin. Mr. Scott-Coe offered further comments on this matter. Mr. Scott-Coe stated our concern is basically precedent setting or potential precedent setting, and we feel it is premature to consider the MPI report because there is not enough information at this time.

Mr. Burton stated we have a similar question on this. Mr. Burton stated currently there are applications submitted in an excess amount of the 100,000 acre-fee cap and this would bring us over that cap. Mr. Burton inquired if we are going to be revisiting this issue in the future; however, the question is what is the hurry or the reason for bringing just the MPI report forward when we have a much larger issue to resolve and this is already above the cap defined in the Peace II Agreement. Mr. Jeske stated the reason for bringing this forward is that is how Watermaster has processed everybody else's in the past. Mr. Jeske stated the CSI letter is an application for a local storage agreement, they don't say supplemental water, and they don't even have that category in that particular pool. Mr. Burton stated he understands what is being discussed; however, this is the first item being brought forward that is above the cap. Mr. Burton asked if any WEI staff was here today. Mr. Jeske stated no, they are not.

Mr. Burton stated there is history of contamination in this area and noted one of his questions is that he sees in the MPI report that WEI states that the RWQCB permit is for surface water management and not a permit for groundwater quality; they appear to be managing the storm water of this effort but they are not necessarily looking at impacts as this water percolates down through the vadose zone in an area where there a lot of contamination. Mr. Burton inquired if WEI looked at this issue. Mr. Jeske stated WEI staff has made contact with the RWQCB, and the RWQCB answer was they believe the quantity of water was so small and de minimis that it would not have impact, so therefore they regulated the storm water discharge which was the bulk of the water from the facility, and Watermaster did not do work further than that other than to report in full disclosure what the status was on some of the surrounding properties. Mr. Jeske offered further comment on the plume of contamination. Mr. Burton stated if he understands the discussions correctly, this analysis is relying on the RWQCB input with respect to any potential impacts in the vadose zone, and that information is not in this report. Mr. Jeske stated that is correct, we did not have WEI go any further in expense in analyzing that based on the comments from the RWQCB.

Mr. Burton stated his next questions is about one of the recommendations in here to do some monitoring of the storm water that goes into this basin and that has not been done yet, so we don't know what the quality is of the water going into this basin. Mr. Burton stated the assumption is that it is stated that it's similar to other storm waters, but again this is on a site where he does not know anything about the processes on the site and its potential to find its way into this basin, and why don't we start that monitoring before we make a conclusion that there is no MPI. Mr. Jeske stated anything that the Pools would direct staff to be done before moving forward and processing on this Watermaster staff would recommend, and of course it is up to the

applicant to perform and provide that information unless you want to create a line item budget for Watermaster to do it. Mr. Jeske stated there is monitoring done on it and it's not every constituent we would normally look at, and Mr. Jeske offered examples of this monitoring. Mr. Burton stated what it states in the report, is that CSI did not provide any water quality information. Mr. Jeske stated he believes CSI did provide some of that information. Mr. Burton read verbatim what was written in the report. Mr. Jeske answered Mr. Burton's question on monitoring for CSI. A lengthy discussion regarding Mr. Burton's questions ensued. Mr. Burton stated the City of Ontario has concerns on this and we would like more time to consider this item.

Chair Zvirbulis stated the recommendation of staff is to receive and file this report and inquired if there was a substitute or alternative recommendation as to how to handle this item. Mr. Burton stated for the City of Ontario, we are not in a position to take an affirmative action on anything with respect to this item. Mr. Burton stated it is his preference is to allow time for the parties to speak with WEI staff and speak to the RWQCB and to hold this item off for one or two months. Mr. Burton offered final comments on this matter. Chair Zvirbulis inquired to Mr. Burton if his motion was to defer this item for further consideration until next month or potentially August. Mr. Burton stated that would be his motion. Mr. Scott-Coe stated Monte Vista Water District questions if this is even a legitimate application and that is our concern with the MPI and not even the content, just that this is an actual application. Mr. Scott-Coe stated we would prefer that it be held off indefinitely until these issues are resolved. Chair Zvirbulis stated what he is hearing from Watermaster staff is they need some direction on what to do with this such as go back to legal counsel to make a determination whether or not this is a legitimate application or not. Mr. Scott-Coe stated there is a process in place to talk about that and he does not want to presume when that process is going to take place. Mr. Scott-Coe offered final comment on this matter. A discussion regarding the Recharge Master Plan schedule ensued. Mr. Jeske stated our obligation is to bring the applications forward and to make sure you all have the information from the applicant. Mr. Scott-Coe inquired if we could just take no action on this. Chair Zvirbulis stated what he heard was to make substitute motion which was to consider this issue as part of the discussions and resolution of matters related to the Recharge Master Plan Update. A discussion regarding the facilities being in place since 2004 and why in 2012 is this application just now coming forward ensued.

Motion by Scott-Coe, second by Burton, and by unanimous vote

Moved to continue this item and have the CSI application for local storage work concurrently with the discussions and resolution of matters related to the Recharge Master Plan Update, as presented

Chair Zvirbulis reordered the closed session to discuss Business Items II B and C, and unresolved issues with the Paragraph 31 motion.

The regular open Appropriative Pool meeting was convened to hold its confidential session at 9:28 a.m.

The confidential session concluded at 10:47 a.m.

Chair Zvirbulis stated there were no reportable action on Business Item II B or C and/or related to the Paragraph 31 motion from the confidential session.

B. INTERVENTION INTO THE OVERLYING NON-AGRICULTURAL POOL

Chair Zvirbulis stated he is not sure if it is necessary to give a report on this item; however, in closed session it was discussed to defer this item for 60 days and to direct the Pool's counsel, John Schatz, to initiate discussion regarding dual Pool membership with the Non-Agricultural Pool and Watermaster counsel and staff. Chair Zvirbulis stated he would entertain a motion in that regard.

Motion by Scott-Coe, second by Young, and by unanimous vote

Moved to defer this item for 60 days and direct the Appropriative Pool Counsel, John Schatz, to initiate discussions with Watermaster Counsel, staff, and the Non-Agricultural Pool to look into dual Pool membership, as presented

C. WEST VENTURE DEVELOPMENT WATER RIGHTS TRANSFER TO CITY OF CHINO

Chair Zvirbulis stated he is not sure if it is necessary to give a report on this item and he inquired if there was a motion similar to the previous motion with regard to this item.

Motion by Harder, second by Hoerning, and by unanimous vote

Moved to defer this item for 60 days and direct the Appropriative Pool Counsel, John Schatz, to initiate discussions with Watermaster Counsel, staff, and the Non-Agricultural Pool to look into dual Pool membership, as presented

III. REPORTS/UPDATES

A. LEGAL REPORT

1. Day Creek and San Sevaine Recharge Permit Time Extensions

Counsel Herrema stated we continue to be in discussions with the State Board staff on getting those extensions wrapped up. Counsel Herrema stated unfortunately we ran into summer vacation schedule issues over the last couple weeks with the State Board staff that we have been working with and we are still moving toward finalizing those extensions. Counsel Herrema stated the State Board staff wants to get further clarification on points of diversion and place of use to clean up those permits because they originated back in the 1980's and we are still working with them on to get that wrapped up and there is no real change in status since his last report.

2. Filings for the Recharge Master Plan Status Report and Motion for Order After Hearing on the Motion For Approval of the Watermaster Resolution 2010-04

Counsel Herrema stated all parties received notice on this item and it was filed with the court on May 31, 2012. The Recharge Master Plan status report filing was approved unanimously by all Pools, Advisory Committee, and Watermaster Board in May. Counsel Herrema stated the motion with regard to the CDA issue regarding private land owner's ability to challenge the CDA was approved by the Pools in March, and both those filings were filed at the same item for efficiency sake.

B. CEO REPORT

1. Recharge and Storage Planning Progress

Mr. Jeske stated the only item he had was to remind everyone that we are continuing to move forward on both recharge and storage processes. Mr. Jeske stated the earlier comments were received on storage and he looks forward to getting ideas from Appropriators on storage so Watermaster can move forward and incorporate it all together and then properly take action on items. Mr. Jeske stated there are parties that are looking forward to having some policy direction and changes as necessary so that they can move forward, and where appropriate include those. Mr. Jeske encouraged everyone to get their ideas together. Chair Zvirbulis stated it is his understanding there is feedback and input forthcoming from the Appropriative Pool and Watermaster staff should receive that soon.

IV. INFORMATION

1. Cash Disbursements for May 2012

No comment was made.

V. POOL MEMBER COMMENTS

Mr. Garibay wished all fathers present a Happy Father's Day.

VI. OTHER BUSINESS

No comment was made.

The confidential session was reordered to be taken directly after Business Item A. at 9:28 a.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.

There was no reportable action from the confidential session.

VIII. FUTURE MEETINGS AT WATERMASTER

Thursday, June 14, 2012	9:00 a.m.	Appropriative Pool Meeting
Thursday, June 14, 2012	11:00 a.m.	Non-Agricultural Pool Conference Call Mtg.
Thursday, June 14, 2012	1:30 p.m.	Agricultural Pool Meeting
Thursday, June 21, 2012	9:00 a.m.	Advisory Committee Meeting
Thursday, June 21, 2012	10:00 a.m.	CB RMPU Steering Comm. and Storage Mtg.
Thursday, June 28, 2012	11:00 a.m.	Watermaster Board Meeting

Chair Zvirbulis adjourned the Appropriative Pool meeting at 10:54 a.m.

Secretary: _____

Minutes Approved: July 12, 2012