

Minutes
CHINO BASIN WATERMASTER
APPROPRIATIVE POOL MEETING

September 13, 2012

The Appropriative Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on September 13, 2012 at 9:00 a.m.

APPROPRIATIVE POOL MEMBERS PRESENT

Marty Zvirbulis, Chair
Scott Burton
Raul Garibay
Ron Craig
Dave Crosley
Mark Kinsey
Van Jew
Sheri Rojo
Josh Swift
Tom Harder
Geoff Kamansky
Ben Lewis
Teri Layton
Shaun Stone

Cucamonga Valley Water District
City of Ontario
City of Pomona
City of Chino Hills
City of Chino
Monte Vista Water District
Monte Vista Irrigation Company
Fontana Water Company
Fontana Union Water Company
Jurupa Community Services District
Niagara Bottling Company
Golden State Water Company
San Antonio Water Company
West Valley Water District

Watermaster Board Members Present

Paula Lantz
Bob Kuhn
Bob Bowcock

City of Pomona
Three Valleys Municipal Water District
Vulcan

Watermaster Staff Present

Peter Kavounas
Ken Jeske
Danielle Maurizio
Joe Joswiak
Sherri Molino

General Manager
Interim CEO
Assistant General Manager
Chief Financial Officer
Recording Secretary

Watermaster Consultants Present

Brad Herrema

Brownstein, Hyatt, Farber & Schreck

Others Present

David De Jesus
Rick Hansen
Nadeem Majaj
John Bosler
Jo Lynne Russo-Pereyra
Justin Scott-Coe
Sandra Rose
Tom Love
Terry Catlin
Craig Miller
Ryan Shaw
Chris Berch
Eunice Ulloa
Jack Safely

Three Valleys Municipal Water District
Three Valleys Municipal Water District
City of Chino Hills
Cucamonga Valley Water District
Cucamonga Valley Water District
Monte Vista Water District
Monte Vista Water District
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Chino Basin Water Conservation District
Western Municipal Water District

Marsha Westropp
Pete Hall
John Schatz

Orange County Water District
State of California, CIM
John J. Schatz, Attorney at Law

Chair Zvirbulis called the Appropriative Pool Meeting to order at 9:05 a.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 July 12, 2012
2. Minutes of the Appropriative Pool Special Confidential Conference Call Meeting held August 30, 2012

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of June 2012
2. Watermaster VISA Check Detail for the month of June 2012
3. Combining Schedule for the Period July 1, 2011 through June 30, 2012
4. Treasurer's Report of Financial Affairs for the Period June 1, 2012 through June 30, 2012
5. Budget vs. Actual Report for the Period July 1, 2011 through June 30, 2012
6. Cash Disbursements for the month of July 2012
7. Watermaster VISA Check Detail for the month of July 2012
9. Combining Schedule for the Period July 1, 2011 through July 31, 2012
9. Treasurer's Report of Financial Affairs for the Period July 1, 2012 through July 31, 2012
10. Budget vs. Actual Report for the Period July 1, 2011 through July 31, 2012

C. OBMP SEMI-ANNUAL STATUS REPORT 2012-1

Motion by Burton, second by Zielke, and by unanimous vote

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

II. BUSINESS ITEMS

A. COST SHARING AGREEMENT BETWEEN WATERMASTER AND INLAND EMPIRE UTILITIES AGENCY

Mr. Kavounas stated this item is a Cost Sharing Agreement between Chino Basin Watermaster and Inland Empire Utilities Agency (IEUA); this is coming through the Watermaster process for consideration to support that agreement. Mr. Kavounas stated when the meeting package was drafted staff only had this agreement in draft form as staff was waiting on further review from IEUA. Mr. Kavounas stated it is his understanding that the agreement is now complete and will go to the Advisory Committee and Watermaster Board as the final agreement. Mr. Kavounas asked that Ms. Maurizio give a more detailed report on this item.

Ms. Maurizio stated this Cost Sharing Agreement is an agreement with IEUA for a 50/50 cost share for a Habitat Sustainability Program. Ms. Maurizio stated this comes out of the Mitigation Measure 4.4-3 from the Peace II Subsequent EIR (SEIR) which requires Watermaster, IEUA, and Orange County Water District to develop this program. Ms. Maurizio stated included within this program is the development of the Adaptive Management Plan, construction, installation of up to seventeen monitoring wells at nine separate sites, and vegetative monitoring sites. Ms. Maurizio stated this was approved in the Watermaster budget of which \$20,000 was budgeted last year, some of which was carried over this year, and then an additional \$200,000 this year; the anticipated cost is \$440,000 total with a 50/50 split between Watermaster and IEUA. Ms. Maurizio stated IEUA applied for a grant on behalf of this project, however, the result of the application results will not be known until April 2013. Ms. Maurizio stated if the grant is approved that will reduce the costs for both Watermaster and IEUA. Ms. Maurizio stated IEUA has now reviewed the Cost Sharing Agreement and the only comments their staff had to the

draft, which is in the meeting package, were capitalization and some punctuation corrections; those corrections will be made to go into the Advisory Committee and Watermaster Board packages.

Mr. Kavounas stated, as mentioned, this is part of the Mitigation Measure 4.4-3 which was also included in the meeting package for reference on page 98.

Ms. Rojo noted she read the agreement and it seemed to be silent as to staff allocation costs. Ms. Rojo inquired as to whom the lead agency on this accumulating the cost is, and who will be submitting back and forth, and then the question of salary allocations for project costs. Ms. Maurizio stated there will not be salary costs included. Ms. Maurizio stated as far as the back and forth, IEUA will be doing the bid for the construction of the wells and they will initially be making those payments, and Watermaster will initially be making the payments to Wildermuth Environmental Inc. (WEI) for the project management of the installation of the wells, and then each entity will bill each other for the 50%.

Mr. Jew stated he has three questions for staff starting on page 101 of the meeting packet regarding the draft agreement for items 3A, B, and C. Mr. Jew read the items and questions from the draft agreement. Mr. Jew inquired about soliciting other proposals to perform the project management tasks. Mr. Jew stated the \$440,000 describes this project including seventeen monitoring wells and nine separate sites; it also includes the mitigation measures, and he asked for more detail on how the \$440,000 number was settled on. Mr. Jew inquired as to the prognoses of IEUA getting the grant money and how much of a grant is being applied for.

Mr. Kavounas stated Mr. Jeske will answer Mr. Jew's questions.

Mr. Jeske stated staff did not solicit from other vendors for item B, which was for the work of WEI, because that work is based on the engineering work and modeling that WEI is doing to date regarding groundwater levels; it is much more effective to continue with WEI. Mr. Jeske stated this is one of the main reasons Watermaster is proceeding forward managing that part of the work, including identifying the locations for the monitoring wells. Mr. Jeske stated some of these wells can be used jointly between Hydraulic Control monitoring, which Watermaster is required to do, as well as monitoring that is being done for habitat preservation. Mr. Jeske stated we are looking at keeping those combined for efficiency. Mr. Jeske stated the part for IEUA is left to IEUA's process and that relates more to work that is being done with the US Bureau of Reclamation and habitat work, and it is his understanding there has been a consultant through that team who was previous retained for this type of work.

Mr. Love stated Tom Dodson was the author of the Supplemental Environmental Impact Report and in terms of the Prado Basin Habitat Sustainability Adaptive Management Plan, Mr. Dodson will probably be the primary consultant. Mr. Love stated there has also been a committee set up which includes Orange County Water District's staff (OCWD). Mr. Love stated OCWD commented on the SEIR and they are concerned about the sustainability of the habitat; that committee will also be involved in directing the work in an advisory role as we move forward.

Mr. Jeske stated in looking at the mitigation measures it is required that IEUA, Watermaster, OCWD and individual stakeholders choose and fund it. Mr. Jeske stated so far the only interested parties and participants have been the three water agencies which are IEUA, Watermaster, and OCWD; however, there are other stake holders that may ultimately determine to intervene into this process. Mr. Jeske stated he and Ms. Maurizio have provided information to Western Municipal Water District because they also have discharges in that area and they may want to combine their needs and projects with our needs and projects for efficiency. Mr. Jeske stated that would only serve to mitigate some of the costs to Watermaster agencies or IEUA agencies. Mr. Jeske stated the mitigation measures anticipated that in the beginning and the committee that is working on this anticipates leaving that door open.

Mr. Harder said he is involved in this and he agrees the more the merrier is great.

Mr. Love stated with regard to the grant, there is a very good probability, especially given the nature of this type of project, that we will be successful in receiving the grant. Mr. Love stated he was not sure of the amount that was applied for; however, the majority of DWR grants that IEUA has received over the years have been 50% matched.

Mr. Jeske stated the cost estimates were put together by the committee and they are rough estimates. Mr. Jeske stated he believes they have received fair estimates on the drilling for these small monitoring wells. Mr. Jeske offered further comment on this matter.

Mr. Kinsey stated what he is hearing is that IEUA, Watermaster, and OCWD who was not directly participating in the funding of this project; although if you read the mitigation measures further it states the participants also jointly fund the project. Mr. Kinsey stated OCWD are the ones who sat down and right-sized the mitigation program that we needed. Mr. Kinsey stated this project was alluded to as the more the merrier; this might provide broader benefits to agencies involved down in the Prado Basin area in that the information developed may help other agencies accomplish some of their tasks. Mr. Kinsey stated it would be fair if we could identify those then ultimately we could expect them to participate.

Mr. Jeske stated the first step was the baseline, and the first year's activity is identifying getting the wells in and continuing the baseline review and studies. Mr. Jeske stated this is a multiyear process; this agreement covers year one. Mr. Jeske stated we need to be in midyear and before the budget next year parties will need to be identifying the ongoing monitoring costs once the facilities and baselines are in place. Mr. Jeske stated by then we should know if other parties wish to participate, and then do any amendments to the work plans to meet their needs as well.

Mr. Harder inquired about OCWD participating in the funding. Mr. Jeske stated at this time they are participating with in-kind work on the fundamental work on the habitat, and they have not committed any dollar resources – it is necessary though, to move forward with Hydraulic Control. Mr. Jeske stated IEUA is interested through the Waste Water Program, it's important to get these monitoring wells in before the initiation of the Chino Creek Wellfield so we have that baseline data.

Chair Zvirbulis stated it is his understanding that this project is budgeted. Mr. Jeske stated that is correct, it is in the current budget.

It was asked if we are monitoring water levels and not water quality. Ms. Maurizio stated it is water levels; however, she believes when the wells are installed some water quality samples will be taken, but ongoing it will just be water levels. Mr. Miller stated the intent is to really monitor vegetation and not water quality; water levels will really be the focus. Mr. Miller stated one of the things OCWD has agreed to do is to spend more of the money on vegetative analysis instead of drilling a lot more wells; they are actually working with us to try and hold the costs down. Mr. Miller stated, with regard to the question, are our cost estimates adequate, he thinks they are very conservative for what we actually had to do in this first round of monitoring. Mr. Miller stated, again, we are going to primarily focus on vegetation. Mr. Miller stated the key is, if there is some decline in vegetation, who's responsibility is it going to be – is it something that happened because of hydrologic conditions or is it something that has happened because of our Hydraulic Control Program. Mr. Miller stated what we are trying to do is rule out impacts from hydrologic control.

Chair Zvirbulis inquired if there were any further questions.

Motion by Kinsey, second by Craig, and by unanimous vote

Moved to approve the Cost Sharing Agreement Between Watermaster and the Inland Empire Utilities Agency Regarding the Prado Basin Habitat Sustainability Program, as presented

III. REPORTS/UPDATES

A. LEGAL REPORT

1. Hearing on CSI Paragraph 15 Motion

Counsel Herrema stated this item is regarding the July 20, 2012 hearing on the California Steel Industries (CSI) Paragraph 15 motion. Counsel Herrema stated at the July 13, 2012 Pool meeting, a report was provided on CSI's then pending Paragraph 15 motion. That motion requested that the court confirm that the effect that some of its prior orders was to establish a joint ownership interest among CSI and Aqua Capital Management (ACM) in some disputed water rights. Counsel Herrema stated those water rights have the subject of a separately pending quiet title action which is pending before a different judge based on the 170.6 preemptory challenge to Judge Reichert hearing. Counsel Herrema stated two months ago CSI's motion was pending and there had been no other filings Counsel Herrema stated at that point the Watermaster Board did not direct any participation by Watermaster legal counsel. Counsel Herrema stated after that meeting CSI's follow up pleading was filed and the Watermaster Board directed legal counsel to file a partial joinder to CSI's motion. Counsel Herrema stated the content of the partial joinder, which was distributed to all the parties, was to lay out from Watermaster's perspective what the factual background was, as to these rights, and a finding that the court did have jurisdiction under Paragraph 15 of the Judgment, then to provide an order that confirmed and clarified its prior orders. Counsel Herrema stated that pleading took no position on the ultimate issue which was whether or not ACM was a legitimate purchaser of those water rights free and clear without regard to any CSI ownership interest; that was filed on July 19, 2012, and July 20, 2012 was the hearing. Counsel Herrema stated at that hearing Judge Reichert came prepared with a draft order. In that order the Judge indicated that Paragraph 15 did not compel him to make any order granting the relief requested by CSI. Counsel Herrema stated the Judge did not want to make any order that could be seen as interfering with the separately pending quiet title action because he had been preemptively challenged from participating in that particular litigation. Counsel Herrema stated all the pleadings and the order have been posted to Watermaster's ftp site.

Mr. Kinsey stated recently the parties were really going through the Restated Judgment and looking at where nonproducing water entities would be placed in the different Pools, etc. and when we went through it, and we noticed that IEUA's role in the Judgment had changed from the original Judgment. Mr. Kinsey commented on nonproducing water entities and the history of their involvement. Mr. Kinsey stated the real question is, is there a reason why we might want to consider changing the treatment of IEUA given the fact that they are no longer the Watermaster and identify their role more on the line of Three Valleys Municipal Water District and Western Municipal Water District. Mr. Kinsey stated it is a thought this Pool has had when we were going through the Restated Judgment. Mr. Kinsey stated this is not something we are going to raise through the process; it is just something we are throwing out for all of your thoughts. Counsel Herrema stated legal and staff can take a further look at that and counsel believes that pertains a little bit more to the second item in legal updates.

2. Motion for Adoption of Restated Judgment, Transmittal of Annual Report, and Request for Approval of Intervention

Counsel Herrema stated this item is for the filing of the motion for adoption of the Restated Judgment, transmittal of the Annual Report, and the request for approval on an Intervention which was filed on Monday, September 10, 2012. Counsel Herrema stated the Restated Judgment was approved by the Pools, Advisory Committee, and Watermaster Board and there was no deadline from the court to file that other than at Watermaster's convenience.

Counsel Herrema stated the Annual Report was presented to the parties in July and approved by all. Counsel Herrema stated the intervention was approved by all Pools, Advisory Committee, and Watermaster Board back in February. Counsel Herrema stated what is typically done for filings, is to aggregate any intervention requests and try and file them collectively in groups to assist in saving on costs.

Mr. Jeske stated there is one other pending intervention request from the City of Chino which has not been processed with recommendations through the Pools, Advisory Committee and Watermaster Board; this is still to come forward when decisions are made and to how to process it.

A discussion regarding the City of Chino's intervention ensued.

3. California Steel Industries Settlement Agreement for Paragraph 31 Motion
Counsel Herrema stated the outstanding appeal issue with CSI has been resolved through a settlement and that settlement has been distributed to all the parties.

B. GM REPORT

1. Recharge Master Plan Update/Storage Issues Review Process

Mr. Kavounas mentioned that the RMPU Steering Committee is taking a look at the schedule and progress so far, and in his brief one week on the job there seems to be one thing that seems to be obvious is that we need to stay focused on the schedule, and if we stay on course, as we have been, we are going to be challenged in meeting our deadlines. Mr. Kavounas stated what is being considered, at this point, is looking at the tasks that are being worked on which are task 5, 6, and 7, and presenting them at the next committee meeting which is scheduled for next week. Mr. Kavounas stated we may present a little bit of an alternative way to move forward that would help speed up the process and would actually help us get more substance on paper as opposed to talking. Mr. Kavounas stated staff is working with Mr. Wildermuth on this. Mr. Kavounas stated with regard to storage issues, this discussion began before my time and he asked that Mr. Jeske address this matter.

Mr. Jeske stated with regard to recharge, he noted he saw at least one of all your city council members last week at San Bernardino Associated Governments (SANBAG), and all of those who are in San Bernardino County. Mr. Jeske stated at SANBAG the County made a presentation on a County vision. Mr. Jeske stated the County of San Bernardino has been collaborating with the community on creating a County vision for education, health care and water is not on the radar that is at a level equal to some of those important public services, which is a good thing. Mr. Jeske stated when looking at that plan, the finding is that within the County as a total, there are adequate water resources to sustain the anticipated demand and population growth within the 20-year planning period, and they are not always reflected in each agency's water supply assessments or Urban Water Management Plans but in the collective. Mr. Jeske stated the primary team that worked on it was Craig Miller from IEUA and his staff, Kirby Brill from Mojave Water Agency, Doug Hedrick from San Bernardino Valley Municipal Water District, and Celeste Cantu from SAWPA, it was a good project and process. Mr. Jeske stated they highlighted everything from storm water MS4 facilities, land use planning, urban landscape water conservation and interagency approaches. The presentation will be given again today at other meetings today in San Bernardino. Mr. Jeske stated he will make sure that Mr. Kavounas has copies of them all and is briefed on each one. Mr. Jeske offered final comment on this matter.

Mr. Jeske stated with regard to storage that was an issue that the Board had directed staff to look at current policies, as well as the Appropriative Pool. Mr. Jeske stated the Appropriative parties have been meeting and they have forwarded suggestions, along with the Non-Agricultural Pool has provided suggestions on storage. Mr. Jeske stated the recommendation would be for a few selected members from each Pool meet within the

next month to discuss and review some of the ideas, and how to possibly move forward with them. Mr. Jeske stated he thinks there have been excellent ideas presented.

2. Water Activity Reports (WARs)

Mr. Kavounas stated staff has collected a large number of the Water Activity Reports; however, there are a few missing and staff wants to encourage all parties to get those in as soon as possible.

3. IEUA Ordinance 70 – Meter Charge/Readiness-to-Serve Update

Mr. Kavounas stated the IEUA ordinance item was discussed last month. Mr. Jeske stated this item was brought up by the Agricultural Pool and he is pleased to announce this has been resolved. Mr. Jeske gave history on this matter in detail and reiterated this issue has been completely resolved by working with the IEUA staff. Mr. Jeske thanked IEUA for working on this matter so quickly.

Mr. Kinsey offered history when he worked at IEUA and spoke on how this ordinance was drafted and what was the intent of this ordinance. Mr. Kinsey offered comment on forming an assessment district which ultimately landed on being a surcharge against all the meter users. Mr. Kinsey reviewed the principal of that ordinance and discussed the double charge to appropriators. Mr. Kinsey offered final comments on this matter. A discussion regarding this matter ensued.

Added comment

Mr. Jeske offered comment on his working with CBWM staff and all of the parties over these last several months.

IV. INFORMATION

1. Cash Disbursements for August 2012

No comment was made on this item.

V. POOL MEMBER COMMENTS

Mr. Garibay thanked Mr. Jeske for his input and support over these last several months and noted that he appreciated his stepping in and assisting Watermaster. Chair Zvirbulis also noted his appreciation and thanked Mr. Jeske. Chair Zvirbulis stated on behalf of this Pool, welcome Peter Kavounas.

VI. OTHER BUSINESS

No comment was made.

The regular open Appropriative Pool meeting was convened to hold its confidential session at 9:42 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.

1. Annual Assessment Attorney Fees

Chair Zvirbulis stated there was one reportable action from the confidential session.

Motion by Kinsey, second by Rojo, and by unanimous vote

Moved to authorize Watermaster to pay invoices to Appropriative Pool legal counsel upon approval by the Pool chair for a not-to-exceed amount of \$75,000 to be paid from the Appropriative Pool's current budget; funds expended are to be replenished through assessments at year-end, as presented

The confidential session concluded at 11:17 a.m.

VIII. FUTURE MEETINGS AT WATERMASTER

* Thursday, September 13, 2012	8:00 a.m.	IEUA DYY Meeting
Thursday, September 13, 2012	9:00 a.m.	Appropriative Pool Meeting
Thursday, September 13, 2012	11:00 a.m.	Non-Agricultural Pool Conference Call Mtg.
Thursday, September 13, 2012	1:30 p.m.	Agricultural Pool Meeting
Thursday, September 20, 2012	9:00 a.m.	Advisory Committee Meeting
Thursday, September 20, 2012	10:00 a.m.	CB RMPU Steering Comm. and Storage Mtg.
Tuesday, September 25, 2012	9:00 a.m.	GRCC Meeting
Thursday, September 27, 2012	11:00 a.m.	Watermaster Board Meeting

* Note: IEUA DYY Meeting changed from September 20th to September 13th for this month

Chair Zvirbulis adjourned the Appropriative Pool meeting at 11:18 a.m.

Secretary: _____

Minutes Approved: October 11, 2012