

**Minutes**  
**CHINO BASIN WATERMASTER**  
**APPROPRIATIVE POOL MEETING**

December 13, 2012

The Appropriative Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on December 13, 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
Curtis Aaron	City of Pomona
Ron Craig	City of Chino Hills
Dave Crosley	City of Chino
Mark Kinsey	Monte Vista Water District
Van Jew	Monte Vista Irrigation Company
Robert Young	Fontana Union Water Company
Seth Zielke	Fontana Water Company
Tom Harder	Jurupa Community Services District
Teri Layton	San Antonio Water Company
Shaun Stone	West Valley Water District

**Watermaster Board Members Present**

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

**Watermaster Staff Present**

Peter Kavounas	General Manager
Danielle Maurizio	Assistant General Manager
Joe Joswiak	Chief Financial Officer
Sherri Molino	Recording Secretary

**Watermaster Consultants Present**

Brad Herrema	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental Inc.

**Others Present**

Sheri Rojo	Fontana Union Water Company
Rick Hansen	Three Valleys Municipal Water District
Nadeem Majaj	City of Chino Hills
Todd Corbin	Jurupa Community Services District
Jo Lynne Russo-Pereyra	Cucamonga Valley Water District
Sandra Rose	Monte Vista Water District
Craig Miller	Inland Empire Utilities Agency
Ryan Shaw	Inland Empire Utilities Agency
Curtis Paxton	Chino Desalter Authority
John Schatz	John J. Schatz, Attorney at Law

Chair Zvirbulis called the Appropriative Pool Meeting to order at 9:00 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 November 8, 2012

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of October 2012
2. Watermaster VISA Check Detail for the month of October 2012
3. Combining Schedule for the Period July 1, 2012 through October 31, 2012
4. Treasurer's Report of Financial Affairs for the Period October 1, 2012 through October 31, 2012

*Motion by Young, second by Harder, and by unanimous vote*

***Moved to approve Consent Calendar items A through B1-B4, as presented***

B5. Was pulled for discussion

5. Budget vs. Actual Report for the Period July 1, 2012 through October 31, 2012

Ms. Layton inquired about legal services costs in the miscellaneous category on page 49 of the meeting package. Mr. Joswiak stated the miscellaneous category is for all of the items within legal for which there is not a specific line item. Mr. Joswiak offered a few examples to better explain Ms. Layton's question. Mr. Kavounas noted that he has used Watermaster legal services assistance to catch up to speed on Watermaster activities since he is new and needed more support with this regard. Mr. Kavounas stated staff will be more than happy to give a detailed presentation on all the charges July through October on this miscellaneous category. Ms. Layton referenced page 51 of the meeting package regarding Wildermuth Environmental Inc. (WEI) and sub-contractors which has the notation of carryover funds for \$44,000, and asked the meaning of "carryover funds." Mr. Kavounas stated there were monies that were unexpended in last years' budget and work that did not get finished, so the Watermaster Board voted to take those monies and that scope of work and carry the funds over into this year. Mr. Joswiak concurred and explained this matter in greater detail. A brief discussion regarding this item ensued.

*Motion by Kinsey, second by Hoerning, and by unanimous vote*

***Moved to approve Consent Calendar item B5, as presented***

**II. BUSINESS ITEMS****A. ANNUAL FINDING OF SUBSTANTIAL COMPLIANCE WITH THE RECHARGE MASTER PLAN**

Mr. Kavounas stated the Peace II Agreement required the Recharge Master Plan Update (RMPU) to be done in 2010, and every year after that the Watermaster make a finding that it is in compliance with our Recharge Master Plan. The first such finding was made last year, and the finding was that we have enough recharge capacity to continue operating in the Chino Basin after the 400,000 acre-foot overdraft is finished. Mr. Kavounas stated the action is giving the parties the go ahead to continue using that 400,000 acre-feet; this is just for that finding and does not have to be reported to the court. It is something that the Watermaster Board needs to make a finding on and this committee is being asked to make a recommendation to the Watermaster Board.

Mr. Young inquired to Mr. Wildermuth when all of these studies were done and WEI evaluated all of the production in the Chino Basin, did WEI's consideration be given to storm production versus lost capacity from contamination or potentially increased production due to reactivation of wells that have been contaminated for a long time, which may increase production to the basin, and ultimately affect recharge. Mr. Wildermuth stated WEI went to all appropriators and producers in the basin and asked them to provide projections, starting with the Urban Water Management Plans because they require some work to get groundwater production projections out of them. Staff then vetted that through the Appropriative Pool.

Mr. Young offered comment on Fontana Water Company (FWC) wells and production capacity that has been lost in the Chino Basin, and we have been actively pursuing potentially responsible parties (PRP). Mr. Young inquired if FWC identifies a PRP and it results in a change in some of our numbers will that adjustment show in the WEI analysis or could that have an effect on recharge? Mr. Wildermuth stated that WEI ran sensitivity studies on production and the short answer to Mr. Young's question is, no. Mr. Wildermuth explained how these types of sensitivity studies provide answers for these types of questions.

Mr. Harder stated his comments relate to the annual finding for recharge compliance. Jurupa Community Service District (JCSD) doesn't really have an issue with recharge capacity on a basin wide level. One issue JCSD has is the balance of recharge and discharge. Mr. Harder stated, in particular, JCSD needs to reduce its net groundwater pumping to a sustainable level. This looks very similar to what was in last years' letter. The issue that JCSD had last year is the same issue we are going to have this year, which is too much pumping in that area, or could also be couched as too little recharge. Mr. Harder stated he feels compelled to make the statement again that JCSD is going to want to be able to pump their water right now that they are an under-producer. Mr. Harder noted he understands this is being addressed in the RMPU Steering Committee meeting, which is greatly appreciated.

Mr. Craig referenced the last paragraph in the WEI letter where it makes reference to the preemptive replenishment program. Mr. Craig stated he is looking for a better understanding on how the reference to the Preemptive Replenishment Program ties to specific needs that we may have in the long-term. Mr. Craig inquired, in other words, is the need for recharge capability to take advantage of a slug of water factored into our recharge capacity. Mr. Kavounas stated in looking at the same item which was discussed last year, it seems there is more information presented to the parties under the supporting report that WEI has prepared, which is necessary to make the finding. Mr. Kavounas stated there is enough recharge capacity and what staff is asking this committee to do is to recommend to the Watermaster Board to adopt the finding itself, and not the WEI report which was provided as background information.

A discussion regarding this matter ensued. Counsel Herrema noted the RMPU is to be updated at least every five years, if not more frequently.

*Motion by Aaron, second by Layton, and by unanimous vote*

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

#### **B. WILDERMUTH ENVIRONMENTAL INC. CONTRACT WITH WATERMASTER**

Mr. Kavounas stated, as the Pools are aware, Watermaster has a contract with WEI to have engineering services performed that are technical in nature, Watermaster does not have the services as an in-house capability so Watermaster contracts that work to WEI. The WEI contract has been in place for a long time and staff has taken a good hard look at the capabilities of WEI, and staff believes WEI's staff is very capable to continue to provide those services. Mr. Kavounas stated staff has also looked at the quality of their work and their responsiveness, and staff is extremely pleased with the services WEI offers. Dialog has taken place between Watermaster and WEI, and WEI is willing to work with Watermaster as their technical engineer; a mutual agreement on the term for the contract was agreed upon. Mr. Kavounas stated staff is recommending approval of this three year contract, as budgeted, to the Watermaster Board for their final approval. The benefit to this agreement is Watermaster continuing to have the services of someone who is knowledgeable, capable and qualified and for the three-year term WEI has agreed to keep their billing rates at the same rate as what they are for 2012.

Ms. Layton stated, in reading the staff letter and seeing that Watermaster is paying for the actual model that they will not have possession of when WEI has completed it, she wanted to make

sure she understood that statement. Mr. Kavounas stated the Chino Basin Watermaster model that has been created by WEI and paid for by Watermaster is fully owned, and will continue to be owned, by Watermaster. Ms. Layton inquired if that is true then if we went to another consultant would that other consultants have the ability to use the model. Mr. Kavounas stated Watermaster has paid for and owns that model, and Watermaster will continue to own that model even if we transition to another consulting firm. Mr. Kavounas stated what we don't have is HydroDaVE (HD), which has been developed by WEI at their own expense. While they are giving Watermaster a free license to use HD, which is a tremendous benefit for Watermaster to have that program, that is something that WEI has paid for, developed, and owns. Ms. Layton inquired if Watermaster went to another consulting firm then we would no longer have that capability any more, is that correct. Ms. Layton also inquired about the not-to-exceed figure, of which the dollar amount actually seems excessive to her, is there a breakdown of tasks and an estimate of time for those tasks so that it is clear what Watermaster is paying for. Chair Zvirbulis stated that is something that is all broken down and itemized as part of the budget process, which is reviewed in great detail every year.

Ms. Hoerning stated she has a technical comment in that she noticed a definition in the WEI contract with CEO as the contract manager; it seems the term should now be General Manager or designee. Mr. Kavounas stated the language is still in the redline format and staff is still collecting comments.

Mr. Kinsey stated, from Monte Vista Water District's (MVWD) point of view, we looked at this contract and this is one of the Watermaster Board's responsibilities to hire and retain consultants. It seems like some of the things Watermaster contracts WEI to do could potentially be cost effectively and competitively bid out to other contractors. Mr. Kinsey offered further comment on this matter and asked that in the future an evaluation be done of the scope of services that has been provided by WEI to see if there are activities that can be competitively bid out by other projects and/or a construction management company. Mr. Kavounas stated he would be happy to look into that in the future.

Mr. Zielke stated he had a few clarification questions, one of which is, was the previous contract for the same amount of time as this one presented. Mr. Kavounas stated the previous contract expires this month and he believes the last WEI contract was for five-years, not for three years. Mr. Zielke inquired about the attorney fees portion of the WEI contract, and asked if the fees which would then due, would they then be assessed. Mr. Kavounas stated every Watermaster expense is assessed.

Mr. Jew inquired what would happen in the event WEI was unable to work with Watermaster or it became time to replace WEI with another firm. He then inquired about page 81 of the meeting package regarding the WEI rates and how do those rates compare to other companies doing the same work. Mr. Kavounas stated in terms of how hard it would be to replace WEI, staff would have to go through a competitive selection process which would include putting together a request for proposals; however for a small staff organization like Watermaster adding that on top of a heavy workload would be a challenge, certainly doable, but a challenge nevertheless. Mr. Kavounas offered further comment on Mr. Jew's question. Mr. Kavounas stated Watermaster could get another firm; however, he believes WEI provides competitive rates, excellent service, and the right balance for Watermaster.

*Motion by Burton, second by Young, and by unanimous vote*

***Moved to authorize the General Manager to execute the contract with Wildermuth Environmental Inc., including making non-substantive changes to the contract that may arise during the contract language finalization, as presented***

#### **C. RMPU AMENDMENT – POTENTIAL RECHARGE PROJECTS AREA OF FOCUS**

Mr. Kavounas stated according to the RMPU Amendment schedule staff wanted to bring some of the key steps forward through the Pools, Advisory Committee, and Watermaster Board process.

Mr. Kavounas stated one of the first questions that staff came across is how much effort should be spent on refining projects. In discussions that took place with the Steering Committee it is staffs view that we should take a look at all the possibilities basin wide before any refining is done. The Steering Committee had strong advice to not go wild and look at projects regardless of cost; they advised that there should be some limitation of costs and staff has tried to capture that in the recommendation. Mr. Kavounas stated the recommendation is to approve, move forward, gather cost and yield data for all projects unless a preliminary estimate seems to be in the \$1,500 per acre-foot or higher in range.

Mr. Young stated he had a couple of thoughts and noted he has not been able to attend the actual RMPU meetings in person; however, FWC representatives have been attending on his behalf. Mr. Young stated he believes that the \$1,500 per acre-foot number was carefully analyzed as to how that number came to be, assuming that staff and the Steering Committee thought it was feasible. Mr. Young stated typically, and we all have experienced it when we invest in something or we are going to invest in an asset, we identify what the value of that asset is, and for him in looking to invest in buying an acre-foot of water at \$1,500 for a one-time investment that he would probably receive a benefit from for a long time he would buy as much as he could. Mr. Young stated he believes that rate was based off of Metropolitan Water District's (MWD) rates; however, it is well known that MWD is not prepared to offer any water anytime soon. Mr. Young inquired if this is going to be based as an asset that we will receive some value from, and would it be of any value or benefit to us to base it as a "right," and if that is the case, it seems that the rate is slightly low. Mr. Young explained the term "right" in greater detail. Mr. Kavounas stated those are good thoughts and in those meetings the parties were very thoughtful; however, staff and Committee are taking a narrower look at this. Mr. Kavounas noted after lengthy discussions the Committee was going to look at all projects; however, if a project was very high in cost, it was basically set aside. Mr. Kavounas stated the Committee did not recommend the concept of using the MWD Tier I rate or any prior replenishment rate, it was a number that the parties felt that the \$1,000 an acre-foot was an upper limit of what they would be willing to commit to at this time. Mr. Kavounas stated in answering the question as to where do we spend our time and resources today in developing costs information, the thought was that this was a rough estimate and the recommendation is not to accept or reject anything based on \$1,500 an acre-foot. It is simply that if the preliminary estimate is looking like it is going to cost approximately \$1,500 an acre-foot, that that project won't be pursued, and based on the consensus of the Steering Committee a \$1,000 an acre-foot is the most that the parties were willing to pay at this time.

Ms. Hoerning stated it seems to her that \$1,500 an acre-foot is quite a bit if you look at it over the life of that project and you roll it back as to how much the parties are going to invest today over a thirty-year period. Mr. Hoerning stated the \$1,500 an acre-foot is going to generally be inclusive rather than exclusive, which is her first reaction to the figure.

Mr. Burton inquired if the \$1,500 an acre-foot is a one-time capital cost to build a facility that will give ongoing, year after year, storm water capture. Mr. Wildermuth stated it is a unit cost of recharge.

Mr. Kinsey stated if the parties could acquire the right to an acre-foot for \$1,500 we would all be lining up to see who could write their checks the fastest. Mr. Kinsey stated he believes it is an annual amortized cost that would be incurred over period of time, whether it is twenty years or thirty years; it is a tool to prepare it to the current cost of water that we have now, by saying buy replenishment water from MWD.

Chair Zvirbulis stated the intent was not to exclude any projects that may be more expensive, it is just a place to start and if things come about that are slightly more expensive, those are things we can consider collectively moving forward.

Mr. Young stated identifying the locations and where recharge is needed would be the first item of business before you can determine whether the project is worthwhile.

Mr. Burton stated he has a thought on setting the cap of \$1,500 an acre-foot now as opposed to taking this list of projects, doing the preliminary estimate, and seeing what the range of cost is and then coming back and saying what is the right threshold; is it \$1,500, or \$1,200, or even \$1,800 an acre-foot, or does it vary depending on the area. Mr. Burton offered examples to verify his point of setting the rate today as opposed to in the future.

Mr. Kavounas stated originally the thought was to look at all of the projects and develop costs for them. Staff heard loud and clear that parties had a concern about total cost. Mr. Kavounas stated the concept was how do we limit this, and from Watermaster's perspective, how do we manage the effort to get something done. Mr. Kavounas stated this is a very tight schedule and the effort is to try and balance both. Mr. Kavounas offered further comment on this matter and noted this will be going to the Watermaster Board next week. Mr. Kavounas stated from a project management point of view, it is strongly preferred to have the threshold identified now; staff needs to manage WEI's effort as well as Inland Empire Utilities Agency's (IEUA) effort and the more that definition is completed now the easier it will be for Watermaster to deliver.

Mr. Kinsey stated he believes there is confusion as to what the \$1,500 means. Mr. Kinsey stated there is a prioritization hierarchy and the Committee is not suggesting that if necessary projects are over \$1,500 they will not be pursued. It is his understanding the \$1,500 an acre-foot was a number that the Committee believed may be used to develop projects which provide additional storm water capture anywhere in the basin that we think that cost of the water may merit implementing that project; it is not being implemented for a balance purpose or for sustainability, it is being implemented to increase storm water capture and operating safe yield. Mr. Kinsey offered further comment on the \$1,500 cost.

Mr. Burton stated he believes Mr. Kinsey is illustrating his point; however, the agenda report does not explain it the way Mr. Kinsey does. It says that if it is over \$1,500 an acre-foot, it is out, and he thinks what Mr. Kinsey is saying is that we have to give other considerations, so it is almost premature to throw it out regardless of other benefits. Mr. Burton stated maybe that is the baseline threshold but we have to give other considerations.

Mr. Young stated when Watermaster evaluates the cost per acre-foot it also needs to see if there are grants associated with the project which will help reduce the ultimate overall cost. Mr. Young offered further comment on what could bring the final cost down.

Mr. Kavounas stated he believes this is a very good and helpful clarifying discussion. Mr. Kavounas stated if a project comes up that is \$1,500 or more the idea was that Watermaster did not pursue in developing a detailed cost estimate; however, that does not mean the project is eliminated and it still can be considered. The simplest approach would be to look at and develop a detailed cost for everything and then put it through selection criteria. Mr. Kavounas stated this needs to be moving forward, and in doing that staff and the Committee are trying to be as intelligent as possible in the way we deploy the resources that we have in the time that is allotted.

Chair Zvirbulis offered comment on different ways to analyze these projects. Chair Zvirbulis stated it should be pretty easy to make a quick determination without spending a lot of time or resources on determining what the estimated cost per acre-foot is going to be for a particular project. Mr. Kavounas stated staff is trying to develop some standardized methodology so that a cost estimate means a cost estimate. Mr. Kavounas stated Watermaster is planning on having WEI work with IEUA because IEUA will develop some of these cost estimates. Mr. Kavounas stated all of the projects have been captured in the table that everyone has seen. Mr. Kavounas offered further comment on what the table will look like in the future with a more detailed cost estimate.

Mr. Burton reiterated what he thought Mr. Kavounas was trying to explain. Mr. Kavounas stated that is correct; however, projects will not get deleted and never seen again, the projects come out with numbers and that number can be changed if that is of interest. Mr. Kavounas stated if the preliminary estimates show \$1,500 or more then it stays as preliminary, or if it is \$1,500 or less then WEI and IEUA proceed in developing a detailed cost estimate. Mr. Burton stated if a project is above that threshold and set aside, there may be an individual or appropriator that wants to partner with Watermaster which is allowed for to pursue that project; maybe at a later time that discussion will have to take place. Mr. Kavounas stated once the table comes back that has the detailed cost estimates, the table would have those projects on it, but in a separate section where everything else is shown below, and those projects would be preserved and continue to be viewed in the process. This amendment is not something that is going to happen without the Steering Committee, Pools, and Advisory Committee input, and ultimately the Watermaster Board's approval. Mr. Kavounas offered further comment on this matter.

Mr. Zielke stated he wanted to make sure that once the table is created and Watermaster has that threshold, and there will be projects above and below that threshold, that does not necessarily constitute a priority at that point. Mr. Kavounas stated no, and noted priorities are established using the evaluation selection. Mr. Zielke stated the term setting aside is a tough term and some of those projects may need and want to be revisited. Mr. Zielke stated as long as we don't lose a good opportunity just because a project is above or below the threshold line; as long as that does not constitute priority at that point then Fontana Water Company is comfortable with this direction. Mr. Kavounas stated the wording in Section 7 will reflect that.

Mr. Young inquired if staff needs to revise its recommendation for approval from the Appropriative Pool because the way it is written; it seems contrary to what was just discussed.

Chair Zvirbulis stated if there is no further discussion he would ask that somebody suggest some language to move this item forward. Chair Zvirbulis stated he believes staffs' intent is in agreement and in alignment with the discussion we had today because this is a process. Chair Zvirbulis stated he is comfortable with this because of the participation in the RMPU Steering Committee meeting discussion, this is a step that we all take to evaluate and categorize projects and decisions and/or priorities are not going to be made solely on costs. It is need-based and management-zone based, and all of those other things discussed are being taken into consideration, so from the chair's standpoint the staff recommendation is sufficient in moving this forward; however, he would entertain any suggestions from Pool members.

Mr. Kavounas stated the one thing in moving this item forward is to change the staff report. Mr. Kavounas noted the last paragraph in the staff report states something different than what is being discussed today. Mr. Kavounas read the last paragraph in the staff report. Mr. Kavounas stated one suggestion to change in the staff report would be to suggest that projects with information that has not been fully developed will also be included so that they are preserved in the process; ultimately what staff is asking today is where we should spend our resources developing our detailed cost information. Mr. Kavounas stated the recommendation suggested in the staff report is still a valid one even in light of the discussions today.

Mr. Burton stated he had one other suggestion for the staff report, in the third paragraph from the bottom in the last sentence which indicates other projects with the initial cost estimates greater than \$1,500 per acre-foot will be dropped from further consideration at this time and maybe just clarify that as well. Mr. Kavounas stated that can be done and offered comment on the clarification.

Mr. Kinsey stated it could say that this is just part of the overall ranking criteria in Section 7 on the report, which has multiple criteria and factors. Mr. Kinsey offered further comment on this matter.

A discussion on a possible motion ensued.

Mr. Young stated he will attempt to propose a motion. Mr. Young stated he will move to accept the recommendation from staff with the understanding that there may be projects that exceed the \$1,500 per acre-foot level based on their location, need, or necessity that should not be excluded and should possibly still be considered. Mr. Young stated the \$1,500 per acre-foot is a preliminary initial estimate subject change, based on location or need.

Mr. Burton stated that motion sort of covers it; however, he was wondering if it could be phrased in such a way that just adds on or captures what Mr. Young said to the end of staff's recommendation. Mr. Young stated he is comfortable with that.

Chair Zvirbulis stated it seems like the conversation today has covered it and we have heard from the General Manager that staff supports the desires of the Pool moving forward, and it may even be sufficient just to say to approve moving this forward as recommended by staff, subject to the revisions that have been discussed by the Appropriative Pool today.

Mr. Craig stated he is willing to second that we add some footnote definition of what the \$1,500 acre-feet is or what the formula is, so we are all on the same page with ourselves and IEUA.

Chair Zvirbulis stated the recording secretary is going to need to make this motion clear so if Mr. Young wants to state the motion again.

Mr. Young stated with further discussion his second attempt at a potential motion would be to approve staff moving forward with the collection/development of cost and yield information for potential recharge projects shown on the attached list. In case a preliminary estimate indicates the project cost would be greater than \$1,500 per acre-foot then a detailed estimate will not be pursued, although the project will continue to be included in the 2010 RMPU Amendment in case it is later determined that a more detailed cost estimate should be developed.

*Motion by Young, second by Craig, and by unanimous vote*

***Moved to approve staff moving forward with the collection/development of cost and yield information for potential recharge projects shown on the attached list. In case a preliminary estimate indicates the project cost would be greater than \$1,500 per acre-foot, then a detailed estimate will not be pursued, although the project will continue to be included in the 2010 RMPU Amendment in case it is later determined that a more detailed cost estimate should be developed, as presented***

#### **D. REQUEST FOR OVERLYING (NON-AGRICULTURAL) POOL AVAILABLE WATER PER JUDGMENT EXHIBIT "G"**

Mr. Kavounas stated this item is following Watermaster's procedure and is asking the Overlying Non-Agricultural Pool to let Watermaster know how much water might be available in advance of the Notice of Availability going out. This does not require any action today, this is just providing notice.

Mr. Kinsey stated the process after the Notice of Availability going out is that the Overlying Non-Agricultural Pool has a certain time period to come back and say they have a certain amount of water to sell as individual Pool members. Mr. Kavounas stated once that is done Watermaster will determine the pro-rata share to each appropriator and notify the appropriators, should they choose to purchase it. Ms. Maurizio stated Watermaster then issue the Notice of Availability to appropriators which lets them know their pro rata share of available water and then the appropriators have a period to respond if they are interested; it will then be distributed to only the appropriators who are interested in purchasing the water. Ms. Maurizio stated the date is March 1, 2013.

Mr. Burton inquired if none of the appropriators are interested in purchasing any of the water, does Watermaster have an obligation to still purchase that water. Mr. Kavounas stated, no.



**III. REPORTS/UPDATES****A. LEGAL REPORT****1. Motion for Physical Solution Transfer Rate Substitution**

Counsel Herrema stated the first item is for the court's approval of the temporary substitute rate for physical solution transfers pursuant to Exhibit G, and these are the same transfers that are the subject of the last informational item. Counsel Herrema stated in November 2012, through Watermaster process the Pools, Advisory Committee, and the Watermaster Board unanimously approved a substitute rate for the replenishment rate that is identified in Exhibit G, based on the fact that MWD has anticipated not having a replenishment rate, let alone replenishment program in 2013. Counsel Herrema stated Watermaster legal counsel filed with the court a motion requesting approval of that substitute rate on November 20, 2012. Counsel Herrema stated Watermaster is requesting the court's approval because it would require a deviation from the Judgment, and it was indicated in the motion that because of the unanimity in the approval it was not believed a court hearing was necessary; however, if it was the courts' pleasure to have a hearing that it would be scheduled before the end of 2012. Counsel Herrema stated the reason for the deadline for the court by the end of the year, is so that there could be certainty on that substitute rate prior to the December 31, 2012 deadline for the Overlying Non-Agricultural Pool members to make their water available. Counsel Herrema stated Judge Reichert requested a hearing be noticed for Friday, December 21, 2012, at 10:30 a.m. Counsel Herrema stated it is not clear why the court requested a hearing other than the Judge either wants to see Watermaster or has some questions about the proposed rate substitution. Counsel Herrema stated Watermaster legal counsel will be coordinating with the Appropriative and Non-Agricultural Pool's legal counsel in appearing at that hearing to answer any questions the court may have.

**2. Chino Court Closure**

Counsel Herrema stated the Chino courthouse will be closing its facility, and staff and counsel has learned from the court clerk that Judge Reichert will remain as Watermaster's Judge and he will be moving this case and his services to the Rancho Cucamonga courthouse.

**3. Watermaster Processing of Applications**

Counsel Herrema stated this item is related to some questions that were brought up during the processing of the Vulcan Pit Recharge Application by members of this Pool and other Pools regarding what Watermaster's obligations are in regard to applications. In response to a request from the General Manager, Watermaster legal counsel has prepared a summary memorandum that explains what those obligations are as they are spelled out in the Judgment, the Peace Agreements, and the Rules & Regulations. Counsel Herrema stated that the memorandum is available on the back table and he is available to discuss any questions by members of the Pool.

**B. ENGINEERING REPORT****1. Model Calibration Update**

Mr. Kavounas stated Mr. Wildermuth will be giving a presentation on the model calibration workshop which was held on November 27, 2012. Mr. Wildermuth gave the Update of the Chino Basin Groundwater Model and Evaluation of Basin Dynamics Draft Calibration Results presentation. This presentation covered questions to be answered, what work has been done to answer these questions, geometry and aquifer properties suggested by new borehole data and addition of Glen Avon/Stringfellow-area Paleo Channel, several maps, improvements in the resolution of land use and historical estimates of the deep infiltration of precipitation and applied water, recharge and discharge fluxes across the land surface, hydrologic budget, data requirements to estimate these flux terms, groundwater model calibration draft results, several charts, and project status.

**C. FINANCIAL REPORT**1. 2012-2013 Assessments Due December 21, 2012

Mr. Joswiak stated on November 21, 2012, Watermaster issued the standard assessments to the Appropriative and Non-Agricultural Pool members, and those per the Judgment are due 30 days from issuance, or December 21, 2012. Mr. Joswiak noted he sent out notifications on December 11, 2012, to the Pool members who had not paid yet.

2. Non-Agricultural Pool Stored Water Purchase (Payment #4) Due December 31, 2012

Mr. Joswiak stated per the Paragraph 31 Settlement Agreement the Non-Agricultural payment number 4 invoice was issued on November 30, 2012, and per the agreement the payment is due on or before December 31, 2012.

3. Watermaster Annual Audit (Presentation will be given at WM Board meeting 12-20-12)

Mr. Joswiak stated the Watermaster annual audit report has been finalized. Charles Fedak, from the Charles Z. Fedak & Company will be at the December 20, 2012, Watermaster Board meeting to provide a presentation on their findings. Mr. Joswiak stated after that meeting he will be posting those findings onto the Watermaster website.

Mr. Kavounas inquired to Mr. Joswiak about the penalty for parties paying their assessments late. Mr. Joswiak stated 10% and Mr. Kavounas reiterated it is 10% according to Watermaster rules and staff is making a concerted effort to collect payments on time.

**D. GM REPORT**1. Ninth Amendment to the Chino Basin Cyclic Storage Agreement

Mr. Kavounas stated Watermaster received a copy of the Cyclic Storage Agreement, which is an agreement that exists between MWD, IEUA, and Watermaster for a way of storing water in the basin. The Cyclic Storage Agreement came into being in 1978 and has been amended 8 times since then; this would be the ninth annual amendment. This allows MWD to store water primarily by delivering water to parties in the basin, who then back off from their pumping. According to Watermaster procedures staff needs to give at least a thirty day notice to the parties that Watermaster is considering renewing that agreement; Watermaster is at that stage of giving notice by making this report today. Mr. Kavounas stated Watermaster would like to take advantage of the thirty days and take an opportunity to meet with Rick Hansen, John Rossi, and Tom Love, who are representatives for the three MWD agencies, to discuss the Cyclic Storage Agreement, and the value it has to the basin, the provisions that are in the agreement, and whether we as a basin would benefit from any changes. Mr. Kavounas stated counsel Herrema will be assisting in this matter. Mr. Kinsey inquired if this agreement mentions a quantity in the storage amount. Mr. Kavounas stated it had been 100,000 acre-feet in the past; however, he does not believe it has a limit. Counsel Herrema stated there is a 100,000 acre-foot limit. Mr. Kinsey offered comment on this matter and reviewed some of its history.

**Added Comment:**

Mr. Kavounas stated members of the Appropriative Pool are most likely aware that Watermaster has obligations to conduct groundwater and surface water monitoring according to the Basin Plan Amendment. Mr. Kavounas stated the Basin Plan Amendment has been amended and has now been officially adopted by the Regional Water Quality Control Board and the State Water Board, and with that adoption the surface water monitoring obligations for Watermaster have changed. This change has reduced the monitoring dramatically from what the requirements were before. Mr. Kavounas stated the savings to Watermaster is expected to be approximately \$275,000 per a year. Mr. Kavounas stated this change was long overdue and staff, while Watermaster was waiting for the approval, had to continue monitoring according to the old monitoring protocol. Staff had tried to predict when that change would come into effect and how much we would be monitoring; we have had to conduct a couple rounds of additional monitoring which will put Watermaster

slightly over our budget for this year. Mr. Kavounas stated starting next year Watermaster will be seeing these new savings. Mr. Kavounas stated this is really good news.

2. Watermaster Office Holiday Schedule

Mr. Kavounas stated the Watermaster office will be closed from December 24, 2012, to January 1, 2013.

**IV. INFORMATION**

1. Cash Disbursements for November 2012

No comment was made.

**V. POOL MEMBER COMMENTS**

No comment was made.

**VI. OTHER BUSINESS**

No comment was made.

The regular open Appropriative meeting was convened to hold its confidential session at 10:25 p.m.

Chair Zvirbulis asked that the Watermaster General Manager attend the confidential session. It was noted the General Manager will be in attendance.

**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. Allocation of the \$75,000 Assessment for Legal Services

The confidential session concluded at 11:23 a.m.

The action from the confidential session was provided by Mr. Kavounas

Appropriative Pool agreed that this years' \$75,000 special assessment for legal services will be billed on a basis of "50% of operating safe yield and 50% of production" without setting precedent for any future special assessments

**VIII. FUTURE MEETINGS AT WATERMASTER**

Thursday, December 13, 2012	9:00 a.m.	Appropriative Pool Meeting
Thursday, December 13, 2012	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, December 13, 2012	1:30 p.m.	Agricultural Pool Meeting
* Tuesday, December 18, 2012	10:00 a.m.	CB RMPU Steering Committee Meeting
Thursday, December 20, 2012	8:00 a.m.	IEUA DYY Meeting
Thursday, December 20, 2012	9:00 a.m.	Advisory Committee Meeting
<del>Thursday, December 20, 2012</del>	<del>10:00 a.m.</del>	<del>CB RMPU Steering Committee Meeting</del> CANCELLED
**Thursday, December 20, 2012	11:00 a.m.	Watermaster Board Meeting
Thursday, January 3, 2013	10:00 a.m.	CB RMPU Steering Committee Meeting
Thursday, January 10, 2013	9:00 a.m.	Annual & Election Appropriative Pool Meeting
Thursday, January 10, 2013	11:00 a.m.	Annual & Election Non-Ag Pool Conference Call Mtg.
Thursday, January 10, 2013	1:30 p.m.	Annual & Election Agricultural Pool Meeting
Thursday, January 17, 2013	8:00 a.m.	IEUA DYY Meeting
Thursday, January 17, 2013	9:00 a.m.	Annual Advisory Committee Meeting
Thursday, January 17, 2013	10:00 a.m.	CB RMPU Steering Committee Meeting
Tuesday, January 22, 2013	9:00 a.m.	GRCC Meeting
Thursday, January 24, 2013	11:00 a.m.	Annual & Election Watermaster Board Meeting

\* Recently added RMPU Steering Committee Meeting

\*\* Watermaster Board Meeting date change due to the Christmas Holiday schedule

Chair Zvirbulis adjourned the Appropriative Pool meeting at 11:23 a.m.

Secretary: \_\_\_\_\_

Minutes Approved: January 10, 2013