

MINUTES
CHINO BASIN WATERMASTER
APPROPRIATIVE POOL MEETING

September 10, 2020

The Appropriative Pool meeting was held by GoToMeeting (conference call and web meeting) on September 10, 2020.

APPROPRIATIVE POOL MEMBERS PRESENT ON CALL

John Bosler, Chair	Cucamonga Valley Water District
Eric Tarango for Cris Fealy	Fontana Water Company
Ron Craig	City of Chino Hills
Dave Crosley	City of Chino
Chris Diggs	City of Pomona
Steven Ledbetter for Rosemary Hoerning	City of Upland
Steven Ledbetter for Rosemary Hoerning	West End Consolidated Water Co.
Courtney Jones	City of Ontario
Josh Swift	Fontana Union Water Company
Josh Swift for Cris Fealy	Nicholson Family Trust
Brian Lee	San Antonio Water Company
Van Jew	Monte Vista Water District
Van Jew	Monte Vista Irrigation Company
Chris Berch	Jurupa Community Services District
Ben Lewis	Golden State Water Company

WATERMASTER STAFF PRESENT AT WATERMASTER

Peter Kavounas	General Manager
Janine Wilson	Senior Accountant
Vanessa Aldaz	Administrative Assistant

WATERMASTER STAFF PRESENT ON CALL

Joseph Joswiak	Chief Financial Officer
Edgar Tellez Foster	Water Resources Mgmt. & Planning Dir.
Anna Nelson	Executive Services Director
Justin Nakano	Water Resources Technical Manager
Frank Yoo	Water Resources Senior Associate

WATERMASTER CONSULTANTS PRESENT ON CALL

Brad Herrema	Brownstein Hyatt Farber Schreck, LLP
Andy Malone	Wildermuth Environmental, Inc.
Mark Wildermuth	Wildermuth Environmental, Inc.

OTHERS PRESENT ON CALL

John Schatz	John J. Schatz, Attorney at Law
Kevin O'Toole	Orange County Water District
Randall Reed	Cucamonga Valley Water District
Praseetha Krishnan	Cucamonga Valley Water District
Eunice Ulloa	City of Chino
Marilyn Levin	State of California – DOJ
Joshua Aguilar	Inland Empire Utilities Agency
Pete Hall	State of California – CIM
Jimmy Gutierrez	Jimmy L. Gutierrez, A Law Corporation
Amanda Coker	City of Chino
Christopher Quach	City of Ontario (Non-Ag)
Scott Burton	City of Ontario
David De Jesus	Three Valleys Municipal Water District
Eduardo Espinoza	Cucamonga Valley Water District

Shawnda Grady
Kevin Kenley
Justin Scott-Coe
Shivaji Deshmukh

Ellison Schneider Harris & Donlan LLP
Cucamonga Valley Water District
Monte Vista Water District
Inland Empire Utilities Agency

CALL TO ORDER

Chair Bosler called the Appropriative Pool meeting to order at 9:00 a.m.

ROLL CALL

(0:01:31) Ms. Nelson conducted the roll call and announced that a quorum was present.

AGENDA - ADDITIONS/REORDER

None

I. CONSENT CALENDAR

Note: All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

Approve as presented:

1. Minutes of the Appropriative Pool Meeting held August 13, 2020
2. Minutes of the Appropriative Pool Special Meeting held August 19, 2020

B. FINANCIAL REPORTS

Receive and file as presented:

1. Cash Disbursements for the month of July 2020
2. Watermaster VISA Check Detail for the month of July 2020
3. Combining Schedule for the Period July 1, 2020 through July 31, 2020
4. Treasurer's Report of Financial Affairs for the Period July 1, 2020 through July 31, 2020
5. Budget vs. Actual Report for the Period July 1, 2020 through July 31, 2020
6. Cash Disbursements for August 2020 (Information Only)

C. OBMP SEMI-ANNUAL STATUS REPORT 2020-1

Recommend to the Advisory Committee to recommend Watermaster Board adoption of the Semi-Annual OBMP Status Report 2020-1, along with filing a copy with the Court, subject to any necessary non-substantive changes.

(0:3:55) Mr. Kavounas remarked on the changes that have been made to Consent Calendar Item I.C. The title of the report has been changed from "2019-2: July to December 2019" to "2020-1 January to June 2020" and on page nine, the word "completed" was corrected to "initiated" in referring to the status of well II-12.

(0:06:07)

Motion by Mr. Dave Crosley, seconded by Mr. Ron Craig, and by unanimous vote

Moved to approve the Consent Calendar with changes noted for I.C. as presented.

II. BUSINESS ITEMS

A. 2020 OBMP CEQA – INCREASED SCOPE OF WORK

Recommend Advisory Committee to support the corresponding budget amendment for: a) effort necessary to implement a Local Storage Limitation Solution first, or b) effort necessary for a revision and recirculation of the 2020 OBMP SEIR.

(0:07:03) Mr. Tellez Foster gave a presentation. A discussion ensued.

(0:38:17)

Motion by Mr. Ron Craig, seconded by Mr. Chris Berch, and by unanimous vote

Moved to recommend to the Advisory Committee to approve Option A as noted above for Business Item II.A..

B. CONSIDERATION OF THE 2020 OPTIMUM BASIN MANAGEMENT PROGRAM UPDATE

Provide advice and assistance to the Watermaster Board.

(0:49:51) Mr. Tellez Foster gave a presentation. A discussion ensued.

C. FISCAL YEAR 2020/21 BUDGET INCREASE (DISCUSSION ONLY)

There is no recommendation related to this item.

(1:23:53) Mr. Kavounas gave a report. A discussion ensued.

III. REPORTS/UPDATES

A. LEGAL COUNSEL REPORT

1. San Bernardino County Superior Court Emergency Order
2. September 25, 2020 Hearing
3. Ely 3 Basin Update

(1:26:26) Mr. Herrema gave a report.

B. ENGINEER REPORT

1. Water Rights Permit 21225
2. Plume Reports
3. GLMC Annual Report

(1:29:11) Mr. Malone gave a report.

C. CFO REPORT

1. FY 2019/20 Audit Schedule
2. AP Special Assessment for \$165,694.75

(1:33:41) Mr. Joswiak gave a report.

D. GM REPORT

1. Status Report: OAP Contest
2. Stored Water Account Balances (June 30, 2020 Preliminary Numbers)
3. San Sevaine Project Award
4. Agricultural Pool Revised Rules and Regulations
5. Water Activity Report Tracker
6. Other

(1:37:18) Mr. Kavounas gave a report and also noted that the AP's Local Supplemental storage agreements which the AP and ONAP approved in December 2019 are not the subject of the OAP Contest, and therefore would be moving to the Advisory Committee and Watermaster Board meetings for approval in September. He also commented that Watermaster has been working on updating its website and hopes to have something more tangible to share with parties in the future. A discussion ensued.

IV. POOL MEMBER COMMENTS

None

V. OTHER BUSINESS

None

VI. CONFIDENTIAL SESSION - POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

The Pool took recess from 10:45 a.m. to 11:00 a.m.

Chair Bosler called for a confidential session at 11:00 a.m. to discuss the following:

- 1. Ag Expenses
- 2. Ag Contest
- 3. Storage/IPA/PAA & Related Matters
- 4. OBMP Update & Status Report

Confidential session concluded at 11:55 a.m. with the following reportable action:

Business Item II.C., Fiscal Year 2020/21 Budget Increase

The Appropriative Pool will be sending a letter to Watermaster requesting that this item be added to the Advisory Committee agenda for discussion.

ADJOURNMENT

Chair Bosler adjourned the Appropriative Pool meeting at 11:55 a.m.

Secretary: _____

Approved: _____ October 8, 2020

Attachment:

- 1. 20200910 Appropriative Pool Minutes Business Item II.C. – Fiscal Year 2020/21 Budget Increase 20200916 Letter from J. Schatz to Chairman Geye (Advisory Committee) & 20090411 Memorandum.

**Attachment 1 to 20200910 Appropriative Pool Minutes
Business Item II.C. - Fiscal Year 2020/21 Budget Increase**

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September 16, 2020

**Mr. Brian Geye
Chino Basin Advisory Committee
Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730**

VIA EMAIL

Re: September 17, 2020 Advisory Committee Business Item II.D.; OAP Budget Increase

Chairman Geye and Advisory Committee Members:

The FY 2020/21 Overlying (Agricultural) Pool (Ag Pool) Legal Services budget was increased by the Ag Pool in the amount of \$200,000 per its action at its September 3, 2020 Special Meeting. Watermaster staff stated in its staff report for the September 10, 2020 Pools meetings that the budget, as amended, will be included within the upcoming November 2020 Assessment Package.

The attached April 11, 2009 Memorandum (2009 Memo) from the Special Joint Committee, Pool Dispute Resolution, provides with respect to the Ag Pool's agreement to participate in the regular Watermaster Budget Process: "all of the budgets will be reviewed through the Pool process, approved and submitted by the Advisory Committee to the Watermaster."

The Pools and Advisory Committee cannot act in other than a perfunctory manner with respect to reviewing the Ag Pool's requested \$200,000 budget increase because no supporting or other information is provided regarding the budget increase. This renders any review, approval and submittal by the Pools and Advisory Committee meaningless with respect to the clear purpose and intent of the 2009 Memo, which is to provide for a substantive informed process.

Your consideration of the foregoing is requested, including requesting additional information and deferring action as necessary, to enable purposeful review of the Ag Pool's \$200,000 budget increase in conformance with the 2009 Memo.

Sincerely,


John J. Schatz

Appropriative Pool Counsel

Copy to: Watermaster and Pools

m e m o r a n d u m

April 11, 2009

TO: Ken Willis, Chairman
Chino Basin Watermaster

FROM: Bob Feenstra, Agricultural Pool Chairman
Ken Jeske, Appropriative Pool Chairman
Bob Bowcock, Overlying-Non Agricultural Pool Chairman

RE: Special Joint Pool Committee
Pool Dispute Resolution.

A budget transfer request of \$21,000.00 has been made by staff to pay for the Regional Water Quality Control Board Basin Plan Amendment for Pathogen Total Maximum Daily Loads (TMDL) for the Middle Santa Ana River Watershed Pathogen TMDL for the Agricultural Pool. The Chino Basin Watermaster Agricultural Pool participates collectively in a task force administered by the Santa Ana Watershed Project Authority (SAWPA).

The Special Joint Pool Committee has resolved the budget transfer should be approved by the Watermaster and requests that Watermaster pay the invoice presented by the SAWPA Task Force.

As part of the resolution process, the Special Joint Pool Committee would like Watermaster to include in its motion to approve the above referenced budget transfer that the Agricultural Pool agrees to participate in the regular Watermaster Budget Process and present an annual budget in the same form and fashion as the other Pools. This will include: legal fees, consultant fees, meeting fees and projects. All of the budgets will be reviewed through the Pool process, approved and submitted by the Advisory Committee to the Watermaster.

Only Watermaster is authorized to undertake Special Project expense under Judgment Section 54 and Section 27. Such expense can only be allocated to a specific Pool if the Pool agrees or the court so orders, but this is not an authorization for the Pool to undertake such expense on its own initiative. (See e.g. Judgment section 54 and Peace Agreement section 5.4(a).) Under Section 38 (a) Pool Committees are limited to "developing policy recommendations for administration of its particular Pool." Special Project expense necessarily must be part of the Physical Solution which is under the control of the Court and its Court appointed Watermaster. While the Pool Committees are there to provide advice and assistance to Watermaster they may not supplant Watermaster's Physical Solution authority under Section 41.

Further, the Special Joint Pool Committee would like to notify Watermaster that additional legal fees have been expended which will require a budget transfer before the end of this fiscal year. Staff will be preparing a legal fee Budget Transfer in May for both the Watermaster and the Agricultural Pool, as recommended by the Special Joint Pool Committee. Presently, the estimate for the Agricultural Pool Budget Transfer for legal fees is approximately \$30,000.00.