

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

August 23, 2007

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on July 26, 2007 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair	West End Consolidated Water Company
Bob Kuhn	Three Valleys Municipal Water District
Terry Catlin	Inland Empire Utilities Agency
Sandra Rose	Monte Vista Water District
Charles Field	Western Municipal Water District
Bob Bowcock	Vulcan Materials Company
Jeff Pierson	Agricultural Pool
Nathan deBoom	Agricultural Pool

Watermaster Staff Present

Kenneth R. Manning	Chief Executive Officer
Sheri Rojo	CFO/Asst. General Manager
Gordon Treweek	Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Hatch & Parent
Mark Wildermuth	Wildermuth Environmental Inc.

Others Present

Gary Meyerhofer	Carollo Engineering
Bill Kruger	City of Chino Hills
Justin LoFranco	City of Corona
Ron Craig	RBF Consulting
Steve Orr	City of Upland Counsel
David DeJesus	Three Valleys Municipal Water District
Raul Garibay	City of Pomona
Ken Jeske	City of Ontario

The Watermaster Board Meeting was called to order by Chair Willis at 11:00 a.m.

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER

It was noted Consent Calendar Item E – Intervention for Fuji Natural Foods Inc. was pulled from the agenda at the request of the Advisory Committee.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Watermaster Board Meeting held July 26, 2007

Item B was pulled for discussion.

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of July 2007
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2006 through June 30, 2007
4. Treasurer's Report of Financial Affairs for the Period June 1, 2007 through June 30, 2007
5. Profit & Loss Budget vs. Actual July 2006 through June 2007

Ms. Rose stated she appreciated receiving the board letter noted her concerns about Chino Basin Watermaster being about 20% over budget. Ms. Rose inquired about taking the money out of LAIF which is a reserve account. Mr. Rojo stated Watermaster does not carry a reserve from one year to the next nor do we keep different fund balances other than the Agricultural Pool fund which is separate. Ms. Rojo stated if Watermaster is over budget from one year to the next, in the past, we credit back the assessments for the upcoming year for any cash that we had on hand. This would have been the first year that we actually had less on hand to return back. Looking at the assessment package in past years we have actually refunded back the appropriators half of the cash available to refund to offset assessments. There is a small amount of cash that Watermaster has held from one year to the next which was used up to help cover the deficit that we currently have. The Budget Advisory Committee has been meeting and to discuss ways to streamline the assessment process and generate assessments that are more level over time that don't fluctuate as much depending on our budgets. One of the items we are looking at is not giving the cash back credit to the appropriators so that it would be more of a build up of a reserve. Ms. Rose inquired about the Santa Ana River hearing costs. Mr. Manning stated the \$500,000 which was discussed in the board letter was for technical work that had to be done, for special witnesses, and attorney fees.

C. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – The lease of 3,500 acre-feet, to be taken first from the fiscal year 2006/2007 allocation from the City of Pomona's net underproduction, if any, with any remainder from Pomona's local storage account in the Chino Basin, to be transferred to the Cucamonga Valley Water District storage account. Date of Application: June 7, 2007
2. **Consider Approval for Notice of Sale or Transfer** – The City of Pomona has agreed to purchase from the City of Upland a portion of Upland's water in storage in the amount of 893 acre-feet for fiscal year 2006/2007. Date of Application: June 7, 2007
3. **Consider Approval for Notice of Sale or Transfer** – The Santa Ana River Water Company lease and assigned Jurupa Community Services District the quantity of 2,000 acre-feet of corresponding annual production right fiscal year 2006/2007. Date of Application: June 28, 2007

D. INTERVENTION – RIBOLI FAMILY/SAN ANTONIO WINERY

Intervention into Chino Basin Watermaster as a Non-Agricultural Pool Party

Motion by Kuhn, second by Rose, and by unanimous vote

Moved to approve Consent Calendar Items A through D, as presented

Item E was pulled from the agenda to be placed on an agenda at another time.

E. INTERVENTION – FUJI NATURAL FOOD INC.

Intervention into Chino Basin Watermaster as an Agricultural Pool Party

II. BUSINESS ITEMS**A. LEGAL INSTRUMENTS**

Counsel Slater stated what is before you today is a suite of documents which comprise of the Peace II measures. They are the legal instruments which effectuate the intention of the parties as they can be divined from the non-binding term sheet. We took the Peace II Non-Binding Term Sheet and translated that document into a suite of legal documents and all of them are before you. The primary document which is the operative document is the Watermaster Resolution. The Watermaster Resolution is presently un-numbered and un-dated, we know it will be in 2007 and in this iteration if you look at Roman numeral eight you will see a variety of items that are referenced under paragraph eight. What this document does it indicates that Watermaster is holding each of those documents and each one of those documents is satisfactory to it, that the foundational or predicate findings have been made. We would then be holding a Socioeconomic Report that was acceptable to the board. Then we would have a report from Wildermuth Environmental regarding the investigation of the project description and whether it would cause material harm to the basin or any party. Having that information and having the documents, Watermaster would then presumably adopt the Resolution and then transmit the entire package over to the court for action. The reason for doing this is that no party or no interest is left behind; it is all tied together. The operative document from Watermaster's standpoint is the Resolution. This process also mirrors exactly what was done in 2000; it is not new. Within the packet are a series of documents which will be covered briefly and then we will take questions and comments related to any one of the individual documents. The first document within the Resolution is the Project Description and this is not CEQA. We have a duty to the court and the court has requested that Watermaster investigate all physical consequences of the intended action regardless of whether it qualifies as a project for CEQA. The document entitled Project Description, which will be an exhibit to the Resolution, is designed to describe to the court what it is we are doing and then Wildermuth Environmental is using the model as its tool to evaluate what the physical consequences would be of the intend action. It does not look at monetary benefits, or how the parties might divide the spoils, it sets the physical parameters for what Watermaster is doing and then will take a look at what the physical consequences of that action. The second document in the packet is a document entitled Discretionary Actions to Amend Watermaster Rules and Regulations. We have gotten lots of comments about the title and it has changed a bit. The reason it is phrased the way it is, is to call out the things that have already been delegated to Watermaster, and Watermaster has the discretion to modify its Rules and Regulations today. As a matter of prospecting the various levels of the overall package, Watermaster has agreed to adopt these Rules and Regulations at the same time as we were accepting the rest of the elements. The next items are two judgment amendments that relate to a specific subject and that is the liberalization of alienating the Non-Agricultural Overlying Rights. Allowing that water to be transferred and made available to the Appropriators provides for an assessment, and the dedication of water to desalter replenishment by the members of the Non-Agricultural Pool. A judgment amendment is required to implement that. A second judgment amendment is also required to implement our new improved OBMP, which the centerpiece of that strategy is Hydraulic Control and Basin Re-Operation. We can't get there from here without having a judgment amendment which allows us to engage in controlled overdraft over a defined period. This Board and the stakeholders spent countless hours defining the circumstances under which that controlled overdraft in Hydraulic Control may be achieved. This judgment amendment sets very specific guidelines on how that is to be accomplished to avoid harm to the basin and to give the court and the public the assurances that we are engaged in good stewardship when we are pursuing our Hydraulic Control. The next document in the package actually is a Purchase and Sale Agreement which is between Watermaster and the members of the Non-Agricultural Overlying Pool. Watermaster presently has the power and authorization to execute a water transfer from the Non-Agricultural Overlying Pool to Watermaster in two defined areas where it is used in connection with the Storage and Recovery Project, or whether it is in furtherance of Desalter Replenishment. This proposed agreement deems to do two things. It proposes to effectively give Watermaster an option to buy water from the Non-Agricultural Overlying Pool for potential use of either Desalter Replenishment, or in connection with the Storage and Recovery Project a

significant quantity of approximately 40,000 acre-feet and it also included an earmarking of a specific quantity for a transfer between a specific Non-Agricultural Overlying member, San Antonio and the seller, Vulcan. The next document in the package is the Peace II Agreement. Note it is the Peace II Agreement and not the amendment to the Peace Agreement and this is an important distinction and there is yet to be another document called the Amendment to the Peace Agreement. In the view of legal counsel it was important to distinguish between those things that were right for an amendment to the Peace Agreement and those things which were new subject matter. We have reduced into the category of new subject matter those things that are contained in the Peace II Agreement; it is a long list of actions that are going to be taken by the parties, primarily, as it relates to the construction and operation of the future desalters. That was a subject that was mentioned in the original Peace Agreement but not resolved; this agreement purports to finally resolve among all parties how future desalters would be managed, constructed, funded, designed, and ultimately operated. It also has a suite of agreements and terms related to subject matter that has to do with Hydraulic Control – how are we going to access the water that's going to be obtained under controlled overdraft and how will that water be shared among the various stakeholders for purposes of Desalter Replenishment. The last agreement is a pretty narrow agreement in that it is only one page and the signature blocks will take up about twenty five pages. It is an amendment to the Peace Agreement and in counsel's view there are three specific subjects that actually required an amendment; they either land on Peace Agreement subject matter, and secondly, they require a different outcome. The item related to the Non-Binding Term Sheet in relation to increasing the quantity that would be available for storage of local supplemental water, under the Peace Agreement is 50,000 while under the Non-Binding Term Sheet the parties want to move it to 100,000; that is clearly contradictory of the Peace Agreement and would require an amendment to the Peace Agreement to effectuate that result. There are also different procedural implications of having a new agreement versus an amendment. Those things that are contained in an amendment to the Peace Agreement are only effective if all parties to the Peace Agreement actually execute the amendment, as opposed to new agreement subject matter which lives or dies on the basis of the parties to that agreement, because it is a new agreement. We are hoping we have everyone sign on; there is no legal requirement that every party to the basin sign on to the Peace II Agreement. This concluded the summary of the documents presented today which include dialog in all workshops, discussions, written comments, and Watermaster meetings. These do reflect three iterations since the version that was transmitted to you at the last Watermaster Board meeting. For the Board's edification what I would like to do is, because of the high degree of confidence in the material, thus far drafted, meaning we are getting close to the finish but that we have structural issues and some procedural issues and then we have some specific issues that will require a resolution and hopefully some deal making amongst the parties before this board can ultimately adopt the package. The two structural issues relate to the role of CEQA. What we are doing with regard to this project description is we are identifying a project for analysis of physical impacts for purposes of the court process. What we are doing with the CEQA process is slightly different. The CEQA has a different definition of what a project is; there are exemptions for historical activity; those things that are being carried out under historical approvals don't require a new round of environmental review that the court may be looking at for purposes of trying to understand what our actions are. There are things that will be in the CEQA process and we are going to pay attention to CEQA, your approvals would be conditioned upon future compliance with CEQA. This means whether we get in under the existing Programmatic Environmental Impact Report which was prepared for the initiated OBMP, plus consistency findings, there will be some things eligible for that. Watermaster is not going to carry or authorize any physical action to be carried out unless we can check a box that there is an identifiable CEQA approval. It would either be the Programmatic Environmental Impact Reports or in the case of the new desalters which was the case of the last desalters, there will have to be environmental compliance related to the construction of new facilities, and potential operations of wells; there is going to be CEQA but what we are doing is approving the business deal subject to downstream CEQA compliance. This is the same thing that was done in 2000; there was a court of appeal decision issued in 2007 that expressly states that parties can engage in business transactional items and not violate CEQA. We are completely acting

appropriately by conditioning physical performance and your approvals of physical actions until CEQA has been complied with. In counsel's view our process is correct and consistent with what you have done in the past and we believe it will be acceptable to the court. There is also a question about whether we would be better served by proceeding under a global amendment to the Peace Agreement as opposed to these documents; so that we would go back to the Peace Agreement, load everything into the Peace Agreement and then proceed in that fashion. In the view of this counsel, that is asking for a quagmire. There is a whole bunch of commitments related to new subject matter and the earlier agreement is fine as it is and there are rights and remedies that have been bargained for in that agreement and there is not need to go back and change them. The process questions relate to mostly timing. The process questions are, you have given us a large amount of documents and while they may reflect the original deal that is represented in the Non-Binding Term Sheet, we do not have enough time to evaluate the propriety of this transaction as whole when we have not seen the Socio-Economic Report by Dr. Sunding. That report needs to be out in sufficient time to allow us to evaluate what the implications are and then, based upon that information, we can make a proper decision. I have been informed that the Sunding Report is out in a draft form, which we will get to, and there will be a workshop on that report next week. The second issue related to Mr. Wildermuth's technical evaluation, same concern, if there is new material or different material or even a mistake. We would like to know that and then adjust the documents. Our assumption based upon contestant communication with Mr. Wildermuth is that we are rocking along in general conformity with the earlier assumptions that the model is constantly being improved, but we have no dramatic changes in terms of our analysis and we are on schedule with that. We would expect that the parties would have at least a few weeks to review the Technical Report before this Board would be asked to approve it. The process questions – get us the information and get it to us early, we are doing the best we can. Ultimately the decision to go at the end of September or not is yours. Watermaster staff and counsel want to give the parties the opportunity to act by getting the documents complete. If you choose to defer it will be your choice with the benefit of all the documents that are presented today. There is also a highbred issue and the highbred issue is part structure and part process; what is the relationship between what we are doing now and a proposal to expand the Metropolitan Dry Yea Yield Account and you will see in the Project Description that indeed we have committed to evaluate the physical parameters of that activity as a foreseeable project within the Project Description. We want to know if this works with our effort to engage in controlled overdraft and obtain Hydraulic Control; it is in the Project Description and we are going to review that. There have been some questions as to whether or not we should address deal points of that DYY expansion within the context of the Peace Agreement. There is a second piece, can you at least include the potential deal points in the Socio-Economic Analysis. As to the Socio-Economic Analysis we have communicated to Dr. Sunding and we are hopeful that we can get a hypothetical of how the expanded DYY Program would weigh on the Socio-Economic impacts prior to your action. As to whether or not we should incorporate a hypothetical transaction, which has not been presented to you, which has not been approved by the Appropriative Pool and which is not being presently recommended by Watermaster staff or counsel, we think that is going too far. Those are the structural and process questions. Then, as it relates to the specific individual issues, there are isolated areas of concern. The heartfelt important views is that the Socio-Economic Report and the technical reports need to be done so people can understand them. There is an issue that has arisen with regard to the treatment of losses from storage. It is understood that there is a strongly held belief on the part of all of the parties to the process that if they have had water held in storage as soon as this deal went forward they would be relieved of any assessment of losses. Because we were implementing a program of Hydraulic Control; it has been said to the group and as your counsel, I am stating if we were intending to pursue that strategy as opposed to one which is in your present draft as opposed to which says the assessment of losses will continue at the current 2% level until we achieve Hydraulic Control. Under the Peace Agreement we have no losses, there were no losses assessed until a specific date, at which point we had to move to a 2% mandatory loss assessment. You had bound yourselves to a minimum of 2% unless and until there was a scientific technical basis to assume another loss figure. Your discretion is tied. So unless you

are presented with a report to deviate from the 2%, you are stuck with 2%. The parties' expectation was by signing up with the Peace Agreement that they would have some technical sponsorship to support that. Based upon where we stand right now, and given that the entire program that we are about to initiate, it is designed to eliminate losses that are presently occurring to the Santa Ana River. It is a bit difficult for your consultant to conclude that there are in deed no losses presently and if we can't make a finding that there are no losses occurring, you are stuck with the 2% number. This present draft is going to make all of your stakeholders grumpy; the facts are what we have. This draft reflects the most recent information that we have received and as soon as we have a feasible technical basis to go to zero, we are happy to do that. This issue has a second component and that is, what do we do about the water that is held in the Storage and Recovery account that is available for MWD. The parties previously called out in the Non-Binding Term Sheet which proposes a 6% loss figure for Storage and Recovery projects unless there is an in lieu contribution. This documentation provides a rationale for how that is to be accomplished, that is we are not worried about actual losses, we are talking about a leave behind which is a concept similar to other banking operations in California where you bank water in somebody's basin and you do good by leaving some component of your storage behind. We will assess actual losses for those who have engaged in historical contributions and a 6% leave behind for those who have not. Watermaster has discretion under this documentation to go to less. There are then related issues that have been raised regarding the ethnicity of the Long Term Plan for MZ1 and management of subsidence that bleed into the Peace II documents and it is represented in the form of concern about hydrologic balance and wanting to be sure that the commitment towards hydrologic balance in MZ1 is carried forward. The language that is in the present draft was approved by your stakeholders in whole a sub-group was set up last week with the task of providing sharper language on that point. In counsel's view we are on schedule, we will be in a position to distribute draft documents through the Watermaster process provided these issues are addressed. You will have the ability to approve the entire suite at the next Watermaster Board meeting. A brief discussion ensued with regard to the presentation given by Counsel Slater.

B. HANSON AGGREGATES

Counsel Slater stated this item has been an item of discussion for several months. Inland Empire Utilities Agency (IEUA) is the lead counsel in this law suit. Watermaster staff and counsel believe we need to file a complaint against Hanson Aggregates in order to get resolution regarding this issue; this is a cost issue at this time. IEUA and Watermaster are trying to recover the costs that were incurred by Hanson's discharge of sediment which clogged the Lower Day Basin. IEUA is the agency that spent the funds to clean up the basin. As IEUA is the lead on the lawsuit, Watermaster is also on the pleading with them and will be signing the pleading. Staff is requesting approval to go ahead and file the complaint against Hanson Aggregates. Counsel Slater stated counsel will need to seek court approval prior to the filing of the complaint because the court has indicated in the past when Watermaster is going to proceed with legal action against a non-party entity it must seek court authorization. A lengthy discussion ensued with regard to this matter.

Motion by Catlin, second by Pierson, and by unanimous vote

Moved to approve filing of the complaint against Hanson Aggregates, as presented

C. ACWA REGION 9 MEMBER AGENCY BOARD PRESIDENT

Election for the 2008-2009 ACWA Region 9 Officers and Board Members Who Will Represent and Serve the Members of Region 9

No motion was received on this item.

III. REPORTS/UPDATES**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**1. MZ1 Filing

Counsel Slater stated the MZ1 Pleading was filed with the court and there is a hearing set for September 13, 2007 regarding this pleading. Counsel stated there have been discussions with the attorney representing Chino Hills and it has been requested by Chino Hills to seek a continuance for this hearing for 120 days on this matter. Counsel has communicated with Chino Hills at the general counsel level and stated that Watermaster is not comfortable with continuing the hearing to a later date. Our goal is to have the MZ1 matter taken care of prior to the court process regarding Peace II; staff and counsel takes direction from the Watermaster Board and this request will be put forth to the Watermaster Board members for their direction. Counsel Slater stated if we don't consent, Chino Hills has indicated their counsel may go to the court immediately to make the request for a continuance; that could be seen within the next day or so. A brief discussion ensued with regard to this matter.

2. Sunding Report – Micro-Economic Study

Counsel Slater stated the workshop regarding this report is scheduled for August 29, 2007 from 10:00 a.m. to 2:00 p.m. A copy of the Sunding Report is on the back table.

3. Supplemental Filing Regarding May 24, 2007 Court Order

Counsel Slater stated there is another filing on the back table; this was handed out for the first time at the recent Legal Instrument Workshop. It is called a Supplemental Filing regarding the May 24, 2007 order. Counsel has gone back and reviewed the May 24, 2007 court order from the last conference that was held with the judge and Watermaster was ordered within 30 days of that hearing to provide an explanation of the connection between Hydraulic Control and the Basin Plan Amendments. Counsel Slater stated it was an oversight that this was not responded to and counsel and staff is now rectifying this with this supplemental filing; there will not be a hearing on this filing.

B. CEO/STAFF REPORT1. Legislative Update

Mr. Manning stated the State of California has approved a budget and there was a compromise made to do this. A lot of details surrounding the budget will be analyzed by several parties. There is approximately three weeks left in the legislative session in Sacramento and a lot of bills will be considered during that time. Mr. Manning stated on page 95 of the meeting packet Ms. Davis has done a great job in compiling both state and federal legislative issues. In Washington DC there is a bit of a problem with the WRDA Act; there is some money in that act that could come to the Chino Basin for studying potential infrastructure within the basin.

2. Recharge Update

Mr. Manning stated there is no recharge taking place other than some minor water that finds its way into our basins.

C. ENGINEERING REPORT1. State of the Basin Report Update

Mr. Wildermuth stated he is going to be giving the committee members a short presentation on the State of the Basin Report (SOB). Through an order that authorized us to implement the OBMP, the State of the Basin Report is required every two years. This is the third State of the Basin Report each time it has been done comments have been received by the Special Referee and the court as to what they would like to see. The report which is out now is a scaled down version of what it used to be. Mr. Wildermuth stated in May the Special Referee asked to verify that Watermaster got all the replenishment it was supposed

to do. The State of the Basin Report describes the state of the basin through June 2006 with respect to geology, groundwater levels and storage, pumping and recharge, Hydraulic Control, and ground level. It is a court order to report the change in the state of the basin since the implementation of the OBMP. Similar reports have been prepared in 2003 and 2005 for the fiscal years ending in 2002 and 2004. With few exceptions, most of the material presented in the 2006 SOB report has been presented in prior Watermaster process meetings and will not be presented today. Mr. Wildermuth stated with regard to the geology/hydrogeology the basin is much deeper than originally believed in the southern end of MZ1 and down into Temescal Basin. The sediments in the deeper zones are predominately fine grained and do not yield or transmit water at exploitable rates. The deep aquifer subsidence mechanism is now understood which enabled the promulgation of the long term management plan. Mr. Wildermuth reviewed several maps in detail. Mr. Wildermuth stated the number of active agricultural wells and associated production has decreased since implementation of the OBMP in 2000. Agricultural production in the vicinity of the Desalter I well field has dropped significantly between 2000-2001 and 2005-2006. Desalter pumping started in 2000-2001 and has reached 16,500 acre-feet per year in 2005-2006. Mr. Wildermuth reviewed groundwater elevation maps in detail. A review of the time history of production, recharge, and groundwater levels in MZ1, MZ2, MZ3, MZ4, and MZ5 was completed. A review of groundwater production, recharge, levels, and storage which included change in storage since the OBMP was implemented in acre-feet from 2000 to 2006 was completed. Mr. Wildermuth stated with regard to groundwater quality, for the most part there have been no significant changes from prior SOB reports. Chilean nitrate has been confirmed as a source of some of the low-level perchlorate hits at wells. A lengthy discussion regarding Chilean nitrate ensued. Mr. Wildermuth reviewed several other area maps in detail. A discussion with regard to Mr. Wildermuth's presentation ensued.

D. FINANCIAL REPORT

1. Assessment Package Update

Ms. Rojo stated invoices were sent out recently to bill for one half of the prior year's assessments. As far as tying out the numbers that go into the Assessment Package this year, staff is all but finished with the land use conversions and the assignments. Staff has entered almost all of the production from each of the parties and the water activity reports will hopefully be able to be sent out to the parties by the end of the month. Staff does need the 85/15 sales figures that are being waited on from some of the parties; we have received about half to date. Ms. Rojo stated all in all the assessment process has been moved up several months, but as a result of the Peace II discussions, the Assessment Package will not be finalized for a while.

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

V. BOARD MEMBER COMMENTS

No comment was made regarding this item.

VI. OTHER BUSINESS

No comment was made regarding this item.

VII. FUTURE MEETINGS

August 21, 2007	9:00 a.m.	Agricultural Pool Meeting @ IEUA
August 23, 2007	9:00 a.m.	Advisory Committee Meeting
August 23, 2007	11:00 a.m.	Watermaster Board Meeting
September 13, 2007	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
September 18, 2007	9:00 a.m.	Agricultural Pool Meeting @ IEUA
September 27, 2007	9:00 a.m.	Advisory Committee Meeting

September 27, 2007 11:00 a.m. Watermaster Board Meeting

The Watermaster Board meeting was dismissed by Chair Willis at 11:57 a.m.

Secretary: _____

Minutes Approved: September 27, 2007