

***Minutes***  
**CHINO BASIN WATERMASTER**  
**WATERMASTER BOARD MEETING**

*October 23, 2008*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on October 23, 2008 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair	City of Upland
Bob Kuhn	Three Valleys Municipal Water District
Jim Curatalo	Cucamonga Valley Water District
Jim Bowman	City of Ontario
Terry Catlin	Inland Empire Utilities Agency
Bob Bowcock	Vulcan Materials Company
Paul Hofer	Agricultural Pool
Geoffrey Vanden Heuvel	Agricultural Pool

**Watermaster Staff Present**

Ken Manning	CEO
Sheri Rojo	CFO/Asst. General Manager
Danielle Maurizio	Senior Engineer
Ben Pak	Senior Project Engineer
Sherri Lynne Molino	Recording Secretary

**Watermaster Consultants Present**

Scott Slater	Brownstein, Hyatt, Farber & Schreck
Michael Fife	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental, Inc.

**Others Present**

Bob Feenstra	Dairy
Jennifer Novak	Department of Justice/CIM
Mark Kinsey	Monte Vista Water District
Sandra Rose	Monte Vista Water District
Nichole Horton	City of Pomona
Tammy Jones	Sunkist
Michael Camacho	Visitor
Marty Zvirbulis	Cucamonga Valley Water District
Ken Jeske	City of Ontario
David DeJesus	Three Valleys Municipal Water District
Ron Craig	RBF Consulting/Chino Hills
Eunice Ulloa	Chino Basin Water Conservation District

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

**PLEDGE OF ALLEGIANCE**

**AGENDA - ADDITIONS/REORDER**

There were no additions or reorders made to the agenda.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Watermaster Board Meeting held September 25, 2008

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of September 2008
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through August 31, 2008
4. Treasurer's Report of Financial Affairs for the Period August 1, 2008 through August 31, 2008
5. Budget vs. Actual July 2008 through August 2008

*Motion by Bowcock, second by Kuhn, and by unanimous vote*

***Moved to approve Consent Calendar Items A through B as presented***

Item C was pulled for discussion and separate motion

**C. WATER TRANSACTION**

1. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company ("Company") has agreed to purchase from The Nicholson Trust annual production right in the amount of 8.185 acre-feet. Date of Application: May 16, 2008
2. **Consider Approval for Notice of Sale or Transfer** – Cucamonga Valley Water District is purchasing 2,500 acre-feet of water from Marygold Mutual Water Company. Date of Application: September 4, 2008
3. **Consider Approval for Notice of Sale or Transfer** – The City of Ontario (as an Overlying Non-Agricultural Party) is purchasing from Sunkist Growers, Inc. all of the amount of Sunkist's water in storage as of June 30, 2008. In addition, Sunkist's annual safe yield production rights in the amount of 1,851.402 acre-feet will be permanently transferred to the City of Ontario (as an Overlying Non-Agricultural Party). Date of Application: August 19, 2008

Mr. Bowcock pulled item C to note that while in support of the action and the activity all parties need to be sure they know what is being brought forward in supporting this action. Item C3 is something that materially changes the way business is done; there are particular lands that have been represented that have changed hands that have been purchased that are associated with these water rights. Those water rights are overlying and the land that is being purchased with that is not necessarily the land that the water was developed at or for. Mr. Bowcock stated he wants the record very clear. Mr. Bowcock noted this could change governance at Chino Basin Watermaster. As long as the parties understand that and move forward with a clear record being made, Mr. Bowcock will make a motion to support this notice. A discussion regarding Mr. Bowcock's comments ensued. Mr. Bowman stated for the record it is the City of Ontario's position that the transfer of the water rights has no bearing on governance now or in the future.

*Motion by Bowcock, second by Kuhn, and by unanimous vote*

***Moved to approve Consent Calendar Item 1C, as presented***

**II. BUSINESS ITEMS****A. GOVERNANCE**

Mr. Manning stated this item is on the agenda because Watermaster is seeking clarity on some issues that staff thought was resolved a year ago and because of motions that made in pleadings by Monte Vista Water District, City of Chino, and City of Chino Hills, the issue of whether the issue of governance was satisfied in a the meeting held on October 2, 2007 or now was called into question. Staff is asking if the parties are asking for Watermaster form a

Governance Committee now or if that provision has previously been satisfied. This item has gone through the Pools and the Advisory Committee and all committee's came to the same conclusion and approved the same motion. The motion was that this item should be sent to the Watermaster Board with no action and that the Board of Directors should be asked for clarification on their intent if they believed the committee should still be put into place or whether this item should be held off until the nine member board issue is re-established in 2010 for action in January 2011. Mr. Kuhn stated according to his recollection this matter was resolved from the standpoint that the parties felt that Peace II needed to be done and that the governance issue would be discussed at same time in the future. Mr. Bowman commented on the notes he had taken at that conference, it appeared all parties concurred on the status of how the governance structure is set currently. Mr. Bowman stated based on the past and the unanimous support of what we did at that conference that this committee should let this issue rest with no change. A discussion regarding reporting to the court ensued. Ms. Rose stated Monte Vista Water District has a problem with the meeting held on October 2, 2007 because there was no attendance record or minutes taken and wants to continue with the motion made by the Watermaster Board in December, 2005. That motion was very specific about forming a Watermaster Governance Committee. Mr. Vanden Heuvel stated he has the same discomfort that Monte Vista Water District does and noted he has solution for this matter since the Advisory Committee has referred this back to the board. The solution would be to make a motion that the Watermaster Board appoint itself as the appointed committee and that this motion constitutes the creation of the committee and the committee's unanimous support for continuing with the existing governance structure; this will then comply with the past motion. This commitment is now done and stands as status quo. A lengthy discussion regarding Mr. Vanden Heuvel's motion and this situation presented today ensued. Chair Willis stated this issue needs to be discussed further and not at this venue and noted he would host a governance roundtable discussion directly after the next Watermaster Board meeting in November.

*Motion by Vanden Heuvel, second by Kuhn, and by unanimous vote*

***Moved to appoint the current Watermaster Board as the Watermaster Governance Committee and as that committee meets today the current governance structure stands as status quo and a roundtable discussion on this matter will be hosted by Chair Willis after the Watermaster Board meeting on November 20, 2008, as presented***

#### **B. WAIVER OF INTEREST CHARGES**

Mr. Manning stated Watermaster clearly has a policy on delinquency of payments to Watermaster that is a part of the Judgment; that language is in the staff report. Mr. Manning noted Watermaster has an obligation as part of the Judgment to invoice for administrative, OBMP recharge debt and Assessments for overproduction and included in the Judgment are provisions by which interest would bear on unpaid balances. This is a policy that has been utilized by Watermaster staff five times in the past prior to these two instances. Most all parties have responded to paying their assessments in a timely manner; however, there were two invoices that staff applied interest charges to when payment was not received timely and those two outstanding interest bills are being presented today because the parties are requesting a waiver of those interest charges. Both parties have been contacted and dialog has taken place regarding these charges. During those conversations the two parties were asked to write a letter requesting the waiver of interest charges and upon receipt of those letters staff will recommend accommodating the waiver. Staff is currently drafting a policy for more efficiently processing delinquent assessments in the future. Mr. Manning stated since he does not have the authority to waive fees it was appropriate to bring this matter through the Watermaster process for recommendations. A discussion regarding this matter ensued. Mr. Manning stated staff is seeking a waiver of these charges. Mr. Manning stated the Appropriative and Non-Agricultural Pool approved the waiver requested and the Agricultural Pool did not approve the waiver. Mr. Manning noted staff is working on a policy to be brought back through the Watermaster process for approval. A draft of that policy is available for review in your committee folders and on the back table. Mr. Feenstra stated the Agricultural Pool is

unanimously strongly opposed to waiving the Monte Vista Water District interest charge of \$31,582.97 and Arrowhead Mountain Spring Water interest charge of \$4,828.53. A discussion regarding why these two parties bills were not paid on time and events that took place leading up to these request of waivers ensued. Mr. Feenstra offered comment on this matter and duly noted his opposition in waiving these fees. Mr. Catlin inquired if the other parties that were charged late fees paid them. Ms. Rojo stated they did in fact pay those interest charges. Mr. Kuhn stated if Watermaster staff has charged late fees in the past and those parties who received the bills paid for those interest charges then this committee should keep doing what the Judgment calls for staff to do and keep doing it. Mr. Vanden Heuvel suggested this item goes back to the Advisory Committee for a second review. A discussion regarding Mr. Vanden Heuvel's suggestion ensued.

*Motion by Vanden Heuvel, second by Kuhn, and by majority vote,*

***Moved to approve send this item back to the Advisory Committee in November, 2008, for a second review and forward it back to the Watermaster Board, as presented***

**C. MOU OF WATER ACCOUNTING PROCEDURE**

Mr. Manning stated this item has been tabled and it will be brought back at a future meeting.

**III. REPORTS/UPDATES**

**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

**1. October 14 and October 16 Ex Parte Hearings**

Counsel Slater stated Cucamonga Valley Water District did file a request to continue that one portion of the hearing with regard to their motion and that was heard on October 14, 2008; however, the court stated if one item was going to be continued, then all items would be continued. The only issue that came up in continuing all the items was the interventions which were time sensitive. There was an Ex Parte hearing scheduled for October 16, 2008 to approve the interventions; the court did approve all of them. The court moved everything else to November 13, 2008. Counsel Slater stated to clarify for the Board's and attendee's purposes, general counsel and Watermaster staff was directed to stay neutral at the hearing concerning the Special Referee. Counsel did receive a request to complete a declaration to clarify some accounting measures; it is completely factual. Counsel Slater noted Ms. Rojo subsequent prepared a declaration, which was submitted. Counsel Slater stated staff has received a subsequent request by the City of Chino Hills for Mrs. Rojo to prepare a factual declaration on an amount expended on Watermaster legal fees by Watermaster over a defined period. We are cooperating with the parties on this request.

**2. November 13, Hearing**

Counsel Slater stated an October 21, 2008 hearing was scheduled; that hearing was going to consider everything that has accumulated over the last several months with the court as judges have changed. This would include approval of Annual Reports, Conditions Subsequent 1 through 6, and the Status Report on the CEQA process. Counsel Slater stated it may be that we take a step back and look at where we are in connection with the CDA expansion process and that we may find it necessary to file a supplemental pleading. This also relates to the November 21, hearing of the Regional Board regarding progress on implementing Hydraulic Control. We owe it to the court to file a pleading which explains where we are in the process; the earlier pleading may have become stale by virtue of the passage of time and now we may need to say something else to the court. Counsel Slater stated all documentation has been signed off on by parties and legal counsel for the CDA group including the proposed parties for the expansion which would be Western Municipal Water District along with the City of Ontario. All other parties have been contacted in this matter and counsel has been assured that there are no further material comments on the documentation. Counsel Slater stated he has heard from the various parties that they are prepared to adopt, without equivocation, the business arrangement of the CDA expansion. Counsel Slater stated he has heard from the City of Chino Hills; however, that they are not

prepared to act and to approve the package until they complete their due diligence. This means that given the recent events that have transpired at Watermaster, it has caused the city to want to re-evaluate the relationships with Watermaster and whether signing on to this business arrangement is a good idea for policy reasons. The City of Chino Hills has one last party they wish to meet with and they have tried to schedule that meeting in sequence with their city council meeting to follow that meeting, but to date, that has not taken place. Counsel Slater stated we are trying to get that matter resolved before the November 13, 2008 court hearing date along with the November 21, 2008 Regional Board meeting. An extended discussion regarding this matter and the governance issue ensued. Mr. Kuhn inquired if any member of this Board can meet with the City Council to discuss what any of the differences might be to them. Mr. Craig stated that might be helpful; however, does not know if that is practical in the tight time frames that we are looking at right now but that he will pass the willingness to respond to their questions/concerns on to them. Mr. Kuhn stated with regard to the issue of governance, at that conference Three Valleys Municipal Water District brought up the fact that if the parties were going to discuss governance then don't also ask us to sign the Peace II Agreement until that was resolved. That is why we walked out of that conference with the agreement that we are going to have a nine member board and we are going to move on and in 2010 the parties will review this matter again; the issue was resolved temporarily but not permanently. Mr. Vanden Heuvel stated he thinks there is a willingness to take a look at governance; however, it is important to remember the Board members had instructed Watermaster staff to specifically stay away from the governance issue; it was not Board initiated, it was party initiated.

#### **B. ENGINEERING REPORT**

1. Oral Progress Report on Engineering Activities, August – September 2008  
Mr. Wildermuth stated Wildermuth Environmental's open task orders are on a spreadsheet and are available on the back table for review.
2. Progress on Condition Subsequent No. 7  
Mr. Wildermuth stated Condition Subsequent No. 7 states that by December 31, 2008, Watermaster shall prepare and submit to the court for approval a revised schedule to replace the initial corrected schedule, which shall include a reconciliation of new yield and storm water estimates for 2000/2001 through 2006/07, and a discussion of how Watermaster will account for unreplenished overproduction for that period. Mr. Wildermuth reviewed the Initial Corrected Schedule and the Unreplenished Desalter Production charts in detail. Mr. Wildermuth reviewed the reconciliation of storm water recharge and noted IEUA and the Groundwater Recharge Coordinating Committee produced estimates for 2004/05 through 2007/08 and Watermaster staff is reviewing and auditing those numbers. Mr. Wildermuth reviewed the Provisional Estimates of Storm Water Recharge chart in detail. Mr. Manning noted there is the technical aspect of this topic and Mr. Wildermuth is giving that report on that and a similar report will be given to the Advisory Committee and Watermaster Board in a few days. Mr. Manning stated on Wednesday, November 12, 2008, from 9:00 a.m. to 11:00 a.m. a Condition Subsequent No. 7 Workshop will be held. The technical, legal, and policy issues of Condition Subsequent No. 7 will be presented/discussed at the workshop.

#### **C. CEO/STAFF REPORT**

1. Agricultural Well Meter Status Update  
Ms. Maurizio gave a presentation on Meter Installation & Maintenance on Agricultural Pool meters. Ms. Maurizio noted Watermaster is responsible for providing the meter, as well as the cost of any installation, maintenance, inspection, testing and repairing of the Agricultural Pool wells which are mandated by the Peace Agreement and the OBMP. Ms. Maurizio reviewed information on the installation of meters since 2001 including calibration and the repair of the meters. The evaluation of the costs of meter installation and maintenance was reviewed in detail and it was noted there is \$88,000 budgeted for FY 2008/2009 for these costs. Several charts were analyzed in detail.

- 2. Legislative Update  
Mr. Manning stated Inland Empire Utilities Agency has several informative legislative updates in their section of the meeting package starting on page 149.
- 3. Recharge Update  
Mr. Manning stated there has been a small amount of recharge in the basin and the most recent Recharge handout is available on the back table for your review.
- 4. Thanksgiving & Christmas Meetings  
Mr. Manning stated both the Advisory Committee and Watermaster Board meetings have been moved up one week in the months of November and December to accommodate the Thanksgiving and Christmas holiday, so please note those changes on your schedules.

**IV. INFORMATION**

- 1. Newspaper Articles  
No comment was made regarding this item.

**V. COMMITTEE MEMBER COMMENTS**

No comment was made regarding this item.

**VI. OTHER BUSINESS**

No comment was made regarding this item.

**VII. CONFIDENTIAL SESSION - POSSIBLE ACTION**

Pursuant to Article 2.6 of the Watermaster Rules & Regulations, a Confidential Session may be held during the Watermaster Pool meeting for the purpose of discussion and possible action.

No comment or motion was made regarding this item.

**VIII. FUTURE MEETINGS**

October 22, 2008	2:00 p.m.	Agricultural Pool Meeting @ CBWM
October 23, 2008	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
October 23, 2008	9:00 a.m.	Advisory Committee Meeting
October 23, 2008	11:00 a.m.	Watermaster Board Meeting
November 13, 2008	8:30 a.m.	CBWM Hearing
November 18, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
November 18, 2008	1:30 p.m.	Joint Appropriative & Non-Agricultural Pool Meeting
November 20, 2008	9:00 a.m.	Advisory Committee Meeting
November 20, 2008	11:00 a.m.	Watermaster Board Meeting

The Watermaster Board meeting was dismissed by Chair Willis at 1:46 p.m.

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

Minutes Approved: November 20, 2008