

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

November 20, 2008

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on November 20, 2008 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair
Bob Kuhn
Charles Field
Jim Curatalo
Jim Bowman
Terry Catlin
Bob Bowcock
Jeff Pierson
Geoffrey Vanden Heuvel

City of Upland
Three Valleys Municipal Water District
Western Municipal Water District
Cucamonga Valley Water District
City of Ontario
Inland Empire Utilities Agency
Vulcan Materials Company
Agricultural Pool
Agricultural Pool

Watermaster Staff Present

Ken Manning
Sheri Rojo
Ben Pak
Danielle Maurizio
Sherri Lynne Molino

CEO
CFO/Asst. General Manager
Senior Project Engineer
Senior Engineer
Recording Secretary

Watermaster Consultants Present

Scott Slater
Michael Fife
Mark Wildermuth

Brownstein, Hyatt, Farber & Schreck
Brownstein, Hyatt, Farber & Schreck
Wildermuth Environmental, Inc.

Others Present

Jennifer Novak
Gene Koopman
Dave Crosley
John Rossi
Mark Kinsey
Sandra Rose
Raul Garibay
Robert Tock
Hank Stoy
Michael Camacho
Marty Zvirbulis
Ken Jeske
David DeJesus
Ron Craig
Eunice Ulloa

Department of Justice/CIM
Milk Producers Counsel
City of Chino
Western Municipal Water District
Monte Vista Water District
Monte Vista Water District
City of Pomona
Jurupa Community Services District
Visitor
Visitor
Cucamonga Valley Water District
City of Ontario
Three Valleys Municipal Water District
RBF Consulting/Chino Hills
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

Mr. Manning stated the Pools and Advisory Committee requested that the Intervention from the Red Hill Country Club, item C1 be held over until a more parallel process is submitted with their planning of the installation of their well.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Watermaster Board Meeting held October 23, 2008

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of October 2008
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through September 30, 2008
4. Treasurer's Report of Financial Affairs for the Period September 1, 2008 through September, 2008
5. Budget vs. Actual July 2008 through September 2008

C. INTERVENTIONS

1. Consider Approval for the Red Hill Country Club Intervention into the Overlying Non-Agricultural Pool
2. Consider Approval for the Aqua Capital Management Intervention into the Overlying Non-Agricultural Pool

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

Moved to approve Consent Calendar Items A, B, C2, as presented

II. BUSINESS ITEMS**A. 2008/2009 ASSESSMENT PACKAGE**

Mr. Manning stated the Assessment Package is in the meeting packet and a workshop was held on October 30, 2008 regarding this item. The Assessment Package reflects all the production from last year and production was down and therefore the cost per acre-foot has increased. Mr. Manning noted this item passed unanimously by the Pools and Advisory Committee. Ms. Rojo gave the Assessment Package presentation. A discussion regarding storage losses and O&M costs ensued. Ms. Rojo stated the recalculation of the over allocation of the of the Agricultural Pool rights is in a new format and has been calculated based on quantity of water that was potentially available to reallocate per Peace II. The 10% of Non-Agricultural transfer of water is done on a predetermined amount that was included in Peace II. This Assessment Package includes no inflow from the Santa Ana River (SAR) as a credit to offset the desalter production. The desalter production is offset by the remaining 400,000 acre-feet that was transferred into the account last year. A discussion regarding the Assessment Package numbers and Condition Subsequent No. 7 ensued.

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

Moved to approve the 2008/2009 Assessment Package, as presented

B. CONTRACT WITH BLACK & VEATCH

Mr. Manning stated the proposed contract with Black & Veatch is to perform services on the Recharge Master planning process. This process was discussed at the recent Strategic Planning Conference as at well as many other meetings. Mr. Manning noted this item passed unanimously by the Pools and Advisory Committee. The work that needs to be performed for this plan is going to be broken up into pieces. This is different than the original plan of having Wildermuth Environmental doing all the work. Staff has looked at the process with the help of Wildermuth Environmental and it has been decided that Black & Veatch can perform some of the tasks at a lower cost. This break up of task will also allow the Recharge Master Plan to be

completed on time. This cost is already in the budget; staff will move funds from one company to another while keeping costs in the same category.

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

Moved to approve the contract with Black & Veatch, as presented

C. BUDGET TRANSFERS

1. Budget Transfer from OBMP & Water Quality Committee Expense to Recharge Master Plan and Watermaster Legal Counsel for \$413,750

Mr. Manning noted staff is seeking approval for two budget transfers this month. When the original budget was developed and approved in June, the Appropriative Pool requested and the Watermaster Board agreed to adopt a budget that was not sufficient based upon the information that was provided at that time. It was asked that the budget be lowered in the category of legal fees and then bring the budget back when the assessment package was being approved with a shored up legal fee number. Mr. Manning noted this item passed unanimously by the Pools and Advisory Committee. This actual budget transfer will move money from the OBMP category to the legal category meaning there will not be an increase to assessments associated with this transaction. Mr. Vanden Heuvel noted for the record that there was thoroughly discussed and examined these legal expenses which included a workshop held earlier this year.

Motion by Vanden Heuvel, second by Willis, and by unanimous vote

Moved to approve the budget transfer from OBMP & Water Quality Committee Expenses to Recharge Master Plan and Watermaster Legal Counsel for \$413,750, as presented

2. Funding of the Farming Portion of the Middle Santa Ana Watershed TMDL Study – Budget Transfer Request for \$21,000

Mr. Manning stated this is an Agricultural Pool request for the farming portion of the TMDL Study and administrative fees associated with this study. This item was brought forward at the Agricultural Pool Meeting last month and at that meeting it was decided to seek payment for this item through the Watermaster process as a Special Project. This will require Watermaster staff to move monies around to cover the \$21,000 since this was not a budgeted cost. Mr. Manning noted there was a lot of discussion at the Pool meetings and at the Advisory Committee meetings. Mr. Manning stated at the Appropriative and Non-Agricultural pool meeting, they moved to deny the request to fund the farming portion of the Middle Santa Ana Water shed TMDL Study and requested staff to provide an explanatory description of what “Special Projects” are, and to bring back a written report on this item at a future meeting. Additionally Mr. Manning stated the Advisory Committee moved to have a complete report brought back on the history of the funds currently held by the Agricultural Pool and an investigation as to what is the scope of a special project. Counsel Slater stated the Advisory Committee did not take a position on this item and that they have referred it to counsel and staff to develop a position; it is coming to this board without a recommendation from the Advisory Committee at this time. A lengthy discussion regarding this matter ensued.

No action was taken on this item.

D. DELINQUENT ASSESSMENT POLICY

Mr. Manning stated when the item regarding delinquent payments/fees was brought through the Watermaster process last month it was noted Watermaster did not have a formal approved delinquent assessment policy to refer to when this type of situation came up. This month staff is bringing a draft delinquent assessment policy through the process to offer staff clear direction in heading delinquent assessment. It was noted not only does this draft policy request at least 10% interest per year but also a 2% late penalty as well. This new policy will be enforced as a going forward policy. Mr. Manning noted at the October Watermaster Board meeting a

committee of two board members, Geoff Vanden Heuvel and Bob Kuhn, were appointed to review the draft policy and they will give their recommendation to the Board members today. Mr. Kuhn stated he met with Mr. Vanden Heuvel after the last board meeting and their recommendation is that there is a mechanism already in place as stated in the Judgment and it is sufficient to justify staffs past practice of assessing interest on late payments. Mr. Manning noted this item passed unanimously by the Pools; however, at the Appropriative and Non-Agricultural Pool meeting they felt the waiver authority given to CEO should change from \$1000 to \$200. The Advisory Committee agreed with the \$200 amount and approved the policy with that slight change.

Motion by Vanden Heuvel, second by Pierson, and by unanimous vote

Moved to approve the Delinquent Assessment Policy and to allow Watermaster staff to waive up to \$200, as presented

E. CONDITION SUBSEQUENT NO. 7

Mr. Manning stated staff is asking for the approval of Condition Subsequent No. 7 which is outlined in the meeting package. Mr. Manning noted the recommendations for Condition Subsequent No. 7 are on page 149. Mr. Manning stated there was a workshop held on this item recently which allowed for questions and answers. Mr. Wildermuth read the court order regarding Condition Subsequent No. 7 and gave a presentation which included a review of the Initial Corrected Schedule that was in the Peace II Agreement. Mr. Wildermuth reviewed the staff recommendation for reconciliation of new yield from storm water recharge. A discussion regarding Mr. Wildermuth's presentation ensued. Mr. Manning stated staff is seeking approval of recommendations presented on this item. Mr. Vanden Heuvel stated for the record the compliance with Condition Subsequent No.7 was a real test for the Watermaster, Watermaster made commitments in the past to do things that could potentially cost money. The decision at the start did not cost any money however, there was a potential that it would depending on what happened. Complying with Condition Subsequent No. 7 is going to cost money; these milestones need to be documented and brought to light.

Motion by Vanden Heuvel, second by Bowman, and by unanimous vote

Moved to approve the corrected initial schedule to account for un-replenished pre-Peace II desalter production from the re-operation water (other than the amount allocated to WMWD) because (a) engaging in physical replenishment will delay the achievement of hydraulic control; and (b) there will be greater yield benefits. To provide the court tables illustrating historical storm water recharge estimates for the period 2000/01 through 2006/07 and a description of the method used by Watermaster to compute new storm water estimates that was adopted by the Watermaster in 2003 and the schedule for the first correction to the new storm water recharge estimate; new prediction and correction will be computed in the summer of 2009, as presented

F. WAIVER OF INTEREST CHARGES

Mr. Manning stated this item was brought to this committee last month and it was asked that this item be sent back to the Advisory Committee for further consideration on the appropriateness of waiving the fees. It went back to the Advisory Committee and they moved that a waiver is not appropriate. The Advisory Committee did state that the amount of interest accruing would be fixed to when the payment came in and not accruing during the entire Watermaster process. The amount on the agenda item is the higher amount and will be adjusted when the invoices are resubmitted to the parties.

Motion by Vanden Heuvel, second by Bowman, and by majority vote – Non-Agricultural Pool abstained

Moved to approve not allowing the waiver of interest charges for Arrowhead Mountain Spring Water and Monte Vista Water District, as presented

III. REPORTS/UPDATES**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**1. November 13, 2008 Hearing

Counsel Slater stated the November 13; hearing did take place before Judge Wade for the first time with a collective group of stakeholders. Conditions Subsequents No. 1 through 6 were approved without objection by any party, Watermaster Status Reports and Updates were approved without objection by any party. Counsel Slater stated with regard to the status of the Special Referee, which was a contested issue, the court elected to deny Cucamonga Valley Water District's motion; however, went on to establish new rules on how the court would plan to conduct future proceedings and how the court intended to engage the Special Referee in the future. The court noted the Judge was in position of transition learning about the files and he would value the input of the referee during this transition period. Judge Wade did make it clear that further assignments to the referee would be made expressly by the court in writing including the scope and the task of the referee and the billing arrangement. Judge Wade indicated that written status reports are not helpful and that instead, he would prefer verbal presentations. Judge Wade has scheduled a two day hearing on February 2 and 3, 2009.

2. February 2 & 3, 2009 Hearing

Counsel Slater stated this will be a live hearing and it is going to be an opportunity for Watermaster and the parties to present themselves and demonstrate our commitment and stewardship in terms of managing the basin. At this hearing the court is expecting live testimony and the court did identify several issues for discussion; 1) the court wants to be briefed on the physical solution, 2) a summary of the Recharge Master Plan with regard to water in the ground over the long term, 3) overall OBMP which to be distinguished from the physical solution on the who, what, why, and where, and 4) the issue of governance due to a criticism in some of the paperwork as to how Watermaster addressed this issue. An outline will need to be formulated prior to proceeding in front of the court; Watermaster will prepare an outline and present that outline to the parties as early as possible to solicit comment and feedback. Counsel Slater stated we will also want to encourage the parties to cooperate in this process and to conduct an orderly hearing for the judge. Counsel Slater stated the only other important information that was released was a research clerk was assigned to the Watermaster case. A brief discussion ensued with regard to the new judge and the early release of the pre-hearing outline.

B. ENGINEERING REPORT1. Oral Progress Report on Engineering Activities, September – October 2008

Wildermuth has been working with the Conservation District and their consultants regarding the master plan. The Water Supply, Demand & Projection calculations have been completed. IEUA has provided information and has certified their production plan. The concept on the Recharge Master Plan was to figure out what the cost of replenishment would be based on initial pumping estimates and come back to the Appropriators and inquire if they really want to pump that much water. A portion of the work has begun on the impacts of land use and drainage on safe yield. Mr. Wildermuth stated Condition Subsequent No. 7 has been a main focus of the efforts of his firm for several months now. Wildermuth staff is working with the staffs at the City of Chino Hills and the State in trying to put together the contract for the grant under AB303 to help do an ASR Injection Test; that grant has been increased from \$230,000 to \$250,000. The INSAR work that is done periodically where we use remote sensing to sense subsidence has provided us with the latest round of information that we use for that work. Wildermuth staff and Watermaster staff is now going back and doing an internal audit on all of our monitoring in preparation for the budget cycle coming up to see if we can find ways to reduce costs and improve the monitoring programs. A discussion regarding storage losses ensued. Mr. Vanden Heuvel requested the possibility that staff not debit water if losses are not actually taking place. A discussion regarding Mr. Vanden Heuvel's comments ensued. Counsel Slater stated the wisdom of the Peace II documentation Watermaster assess a 2% loss until the time that

there was additional engineering data and/or Hydraulic Control is achieved at which at that point the losses would be zeroed out. Staff was informed that there wouldn't be losses at the time that Hydraulic Control was secured; the Peace II process did leave open the prospect that better information could be presented to the board at any time to adjust a 2% amount.

C. CEO/STAFF REPORT

Mr. Manning stated with the elections over that there was a continued resolution that put everything on schedule from last year's budget all the way through January 1st. There will be new authorities set with the new administration. The State has new projections on the deficit which is now at \$24-\$25 billion dollars over a two year period. We are watching both the state and federal issues very closely.

2. Recharge Update

Mr. Manning stated there is a copy of the most recent recharge update on the back table.

3. Replenishment Obligation

Mr. Manning stated Watermaster does have a replenishment obligation of almost 20,000 acre-feet this year. Watermaster does not have a source for that water at this point in time identified. Staff will be making the call to buy water out of storage from producers; similar to what was done last year. The water will be purchased at the MWD replenishment rate.

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

V. BOARD MEMBER COMMENTS

Chair Willis stated the roundtable discussion that was scheduled for today has been cancelled.

VI. OTHER BUSINESS

Mr. Catlin introduced Michael Camacho who will represent Cucamonga Valley Water District and sit on the Inland Empire Utilities Agency board.

Mr. Manning stated on Monday the City of Chino Hills did pass the expansion of the Desalter Authority Agreement thereby allowing Western Municipal Water District to join the CDA which will allow Watermaster and parties to move forward with achieving hydraulic control.

The regular open Watermaster Board meeting was convened to hold its confidential session at 12:06 p.m.

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.

1. Chino Airport
2. Accounts Receivable Settlement
3. Hansen Aggregate Settlement

The closed session was convened at 12:14 p.m.

Counsel Slater stated the report from the Watermaster closed Board session was to have legal counsel prepare conforming settlement agreement.

VIII. FUTURE MEETINGS

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	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
November 20, 2008	9:00 a.m.	Advisory Committee Meeting
November 20, 2008	11:00 a.m.	Watermaster Board Meeting
November 20, 2008	1:30 p.m.	Roundtable Discussion
December 11, 2008	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
December 16, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
December 18, 2008	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
December 18, 2008	9:00 a.m.	Advisory Committee Meeting
December 18, 2008	11:00 a.m.	Watermaster Board Meeting

The Watermaster Board meeting was dismissed by Chair Willis at 12:15 p.m.

Secretary: _____

Minutes Approved: December 18, 2008