

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

June 25, 2009

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on June 25, 2009 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair
John Rossi
Bob Kuhn
Jim Curatalo
Michael Whitehead
Michael Camacho
Bob Bowcock
Jeff Pierson
Bob Feenstra

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

Watermaster Staff Present

Kenneth R. Manning
Sheri Rojo
Ben Pak
Danielle Maurizio
Sherri Lynne Molino

Chief Executive Officer
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

Mark Kinsey
Marty Zvirbulis
Dave Crosley
Raul Garibay
Robert Young
John Mura
Ron Craig
Ken Jeske
Jennifer Novak
Robert Tock
David DeJesus
Dan Horan
Sandra Rose
Steven Lee
Eunice Ulloa
Terry Catlin
David Penrice
Hank Stoy

Monte Vista Water District
Cucamonga Valley Water District
City of Chino
City of Pomona
Fontana Union Water Company
City of Chino Hills
City of Chino Hills
City of Ontario
State of California Department of Justice, CIM
Jurupa Community Services District
Three Valleys Municipal Water District
Three Valleys Municipal Water District
Monte Vista Water District
Reid & Hellyer
Chino Basin Water Conservation District
Inland Empire Utilities Agency
Aqua Capital Management
Cucamonga Valley Water District

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

PLEDGE OF ALLEGIANCE**PUBLIC COMMENTS**

No public comments were made.

AGENDA - ADDITIONS/REORDER

Mr. Manning stated there were three new handouts regarding the auction Business Item II A; 1) Revised Staff Letter, 2) Supplement staff letter, and 3) Exhibit A – Conditions for Storage and Recovery Agreement. Mr. Manning stated these three items are what will be used to make your decision today for the auction.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Watermaster Board Meeting on May 28, 2009

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of May 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through April 30, 2009
4. Treasurer's Report of Financial Affairs for the Period February 1, 2009 through April 30, 2009
5. Budget vs. Actual July 2008 through April 2009

C. BANK OF AMERICA

1. Bank of America Visa Request to Appoint Ken Manning, CEO as Authorized Agent at Chino Basin Watermaster with a Credit Limit of \$10,000.00 for the Visa Account No. XXXX-XXXX-XXXX-9341

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

Moved to approve Consent Calendar A through C, as presented

II. BUSINESS ITEM**A. OVERLYING NON-AGRICULTURAL POOL AUCTION ISSUES**

1. Storage & Recovery Agreement
2. Broad Benefit
3. Determination on Material Physical Injury

Mr. Manning stated at the Advisory Committee meeting this morning a report was made that this item had gone to the Pools, and at the Appropriative and Non-Agricultural Pool meeting those pools took action to support and approve all three items listed under the business item and at the Agricultural Pool meeting, that committee took an action to take no action. At the Advisory Committee meeting there were a number of comments made and the action taken by that committee was approved; however, they took all three items independently and voted on them separately. At the Advisory Committee meeting there were some changes made within the documents and that committee is asking this Board to take their recommendation to approve those documents with those changes. Mr. Manning referenced the new staff report that was handed out this morning which included items 1, 2, 3, and 4; item 4 is for information only and will not have action taken on it today. Mr. Manning noted the Draft Storage & Recovery Agreement is the Draft Template Storage & Recovery Agreement and is included in the meeting package. There was a change to the findings on page 2 of the new staff report on Broad Mutual Benefit; the Advisory Committee asked for the insertion of, "*the Appropriative Pools share of*, on the third line after *Sale Agreement for* and before *capital* for clarification." Mr. Manning noted the other change was in the actual draft template within the recitals N to strike the word "*unanimously*" from that document because the vote was won by a majority vote at the Appropriative and Non-Agricultural Pool and a no vote at the Agricultural Pool meetings. Mr. Manning stated staff is seeking one motion on all three items; however, they can be taken separately if that is the Boards discretion. Mr. Manning noted several of the parties who were

present at the Advisory Committee meeting this morning are also present for this meeting if any clarification is needed as to what took place. Chair Willis asked for any comments or observations on this item. Mr. Bowcock stated the Non-Agricultural Pool wants to see this process move forward and stated with regard to broad mutual benefit, there is concern from the Non-Agricultural Pool that is contrary to the language with regard to the Peace II Agreement regarding exclusive benefit being between the Overlying Non-Agricultural Pool and the Appropriative Pool. The Appropriative Pool has elected to make themselves extremely exclusive in that process. At this time the Non-Agricultural Pool is not objecting to that exclusiveness, knowing there will be further dialog as to how those benefits will ultimately be shared. Mr. Manning stated Mr. Bowcock is correct and there will be additional dialog. Mr. Manning stated the parties are referring to a \$25 storage space fee that will be paid for by the parties that are successful in the auction; this is the part that the Overlying Non-Agricultural Pool is specifically referring to. Mr. Manning stated staff has no opinion on the section in question and there will be further discussions on it. Mr. Feenstra commented on what took place at the recent Agricultural Pool meeting regarding this matter and noted Ms. Novak will be giving a statement on the pools behalf. Ms. Novak stated the Agricultural Pool feels, even though they have been told they have no stake in the game, they want the process to move forward; although, at the same time, the pool wants to voice its opinion on concerns as they come up and have done so verbally at the Pool, Advisory Committee and Watermaster Board meetings and in writing. Ms. Novak stated she wanted it to be noted for the record that the Agricultural Pool has concerns and some of them are policy based, some of them are questions about the legal conditionality's, and some are technical based. Counsel Slater noted there have been legal, technical, and policy issues that have been raised through the Pool process and they are largely identified in the issue list within the staff report and are responded to. Counsel Slater stated the opinion of counsel and staff is not the final word; what is here is a process which is going to generate a Template Storage & Recovery Agreement, and Watermaster does not have the power, on its own, to execute a Storage & Recovery Agreement without court approval. Counsel Slater stated the process is that a Template Storage & Recovery Agreement will be nominated and submitted to the court along with the findings, rationale, and support of the conditions that are attached to the Template Storage & Recovery Agreement. The court will then be asked to approve the template so that the court will rule in advance of the auction. A lengthy discussion regarding the comments made on this item and on the downside of not voting on this issue today. Mr. Kuhn stated he was having a difficult time understanding what is being asked of this Board today. Mr. Manning restated the issues being presented today and the needed result to move this item forward in a timely manner to be taken to the court and ultimately to auction by December 31, 2009. A lengthy discussion regarding Mr. Manning's comments ensued. Counsel Slater restated the process that has been taking place, the needed outcome to move forward, and the legalities of the entire process to resolve this matter. A lengthy discussion regarding Counsel Slater's comments including conflict of interest concerns ensued. Mr. Whitehead stated he is thankful this item has been on the agenda at least as an information item for the past several months which led to several open discussions and noted this is an iterative process and if an action is taken today, that iterative process will continue because there is more to do. Mr. Whitehead inquired about professional services and noted the written expression of obtaining these professional services as being extremely important. Mr. Whitehead offered comment on the task at hand for this board, Watermaster staff, legal counsel, and for the professional services that are needed. Counsel Slater acknowledged that professional services are needed as to how to conduct an auction. Counsel Slater offered commentary on the professional services that conduct auctions and noted counsel has contacted them and engaged in dialog with them. Counsel Slater stated he has met with the pool members and has received feedback as what to do next and counsel is now in the position to carry out that instruction and bring that recommendation back through the Watermaster process in the next 30 days. A lengthy discussion regarding professional services ensued. Chair Willis stated he, as the chairman of this Board, would like to see this Board try to participate and trust the process to the extent that we are fully knowledgeable in all areas and will be ready to act when needed. Mr. Kuhn expressed his concern at moving forward today; however, noted it would be extremely beneficial if there would be a special meeting or workshop

to cover these items in greater detail. Counsel Slater reviewed the needed sequencing timeline in detail. Counsel Slater stated the Appropriative Pool are the compensation beneficiaries of the excess revenue and it is effectively their expense associated with conduction of the auction; the Appropriative Pool is fair to state they do not want to incur a six figure potential expense in administering a dry hole. The Appropriative Pool wants to know there is momentum and support for this activity before a professional service is retained which leads this board back to sequencing. A discussion regarding Counsel Slater's comments ensued. Mr. Curatalo offered comment on this matter and inquired about the possible meeting or workshop. Mr. Manning reviewed the sequence of events that would take place and noted they will be more defined by the actions taken today. Mr. Manning stated the foundation needs to be set first and then the next steps can be taken; however, if the foundation is not set first then this will not be moving forward to start on the next steps that are needed. Mr. Kuhn stated he would make a broad motion that the Board approves the three items presented that the opportunity to take this to the auction stage is not missed. Mr. Kuhn also noted a workshop needs to be scheduled as soon as possible. A lengthy discussion regarding this item ensued. Mr. Feenstra called for a roll call vote. Mr. Bowcock offered comment on the Agricultural Pool's abstention and offered encouragement for that pool to attend the upcoming workshops. A lengthy discussion regarding stopping the process at any point in time ensued. Mr. Manning stated staff and counsel designed this process where it is a constant check-in with the Pools, Advisory Committee and Watermaster Board as it is moved along the process so that there is a level of comfort. Mr. Jeske offered comment on the schedule and noted the urgency of getting these three items moving forward so that the next elements can begin. It was noted the auction administration portion is not being decided upon today. A lengthy discussion regarding the timeframe and the issues being covered for the upcoming workshop ensued.

Motion by Kuhn, second by Curatalo, and by majority roll call vote – Ag Pool abstained
Moved to approve the Storage & Recovery Template Agreement, the Broad Benefit definition, and the determination on Material Physical Injury and Watermaster staff will schedule two workshops: #1 Auction Process and #2 Auction Administration, as presented

III. REPORTS/UPDATES

A. **WATERMASTER GENERAL LEGAL COUNSEL REPORT**

1. June 29, 2009 Hearing

Counsel Slater stated there is a Watermaster hearing scheduled for Monday, June 29, 2009 at 9:30 a.m. and this hearing will cover Program Elements No. 4, 5, and 6. Presentations will be given by Watermaster staff and Watermaster consultants only. An email went out recently with the stipulation which applies to this hearing. The hearing should end around noon because the presentations being given are not lengthy.

2. Auction Administration Contract

Counsel Slater stated this item was covered in detail under the Business Item section. No further comment was made.

B. **ENGINEERING REPORT**

1. Recharge Master Plan Progress Report

Mr. Wildermuth stated the Recharge Master Plan, from a technical standpoint, is divided into two parts; there is a supplemental water track and a storm water track. The storm water work is being done by the Chino Basin Water Conservation District and their consultants along with calibrating with Inland Empire Utilities Agency staff; their first draft test memorandum is to be released shortly. Mr. Wildermuth stated with regard to the supplemental water track, Wildermuth Environmental has prepared and released some estimates for the supplemental water recharge requirements for the future and have only received minor comments back on that report. This report will be used as a goal for the future and in all the work that is being done. It was noted this basin probably does not need any more spreading facilities; however, improvements to the current spreading facilities will

need to be done. An additional source of supplemental water will be needed unless Metropolitan Water District (MWD) can change their projections of being able to supply water. Black & Veatch is working on facility improvements for both injection and the possibility of moving water from the San Gabriel line into some of the spreading basins that have not been looked previously at. Wildermuth Environmental is looking at the parameters for a new supplemental water source. Mr. Wildermuth stated with regard to the production optimization work, this work was an additional task added to the recharge master plan and is being worked on currently by working with our water agencies to possibly revise their pumping patterns. Mr. Wildermuth stated working with those agencies was successful and two new scenarios were run; one was if the basin remains limited by getting water from MWD and the other scenario is if that limitation is removed. Mr. Wildermuth reviewed the scenario results in detail.

2. Upcoming Workshop Schedule

Mr. Wildermuth stated there is a workshop scheduled on July 23, 2009 directly after the Watermaster Board meeting and at that workshop; production optimization work will be reviewed in detail.

C. FINANCIAL REPORT

1. Fiscal Year End Update

Ms. Rojo stated the fiscal year ends next week and staff is currently ahead of schedule in that the Land Use Conversions are almost completed. Production reports have been sent out to the parties and staff should be receiving them back shortly after the fiscal year closes.

D. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated he was recently in Sacramento on behalf of the California Groundwater Coalition (CGC) offered comment on Proposition 1A regarding the state borrowing money from property taxes. Mr. Manning discussed several of the bills that the CGC has taken a support position on. Mr. Manning offered comment on the issue with regulation of water softeners and what is taking place in Sacramento because of this bill. Mr. Manning stated he recently received an email regarding the joint hearing of the Water Parks & Wildlife and the Senate Natural Resources was set for July 7, 2009 at 9:00 a.m. and the reason this is so important is because this is the first time that the public will have an opportunity to respond to the proposed Delta Package that has been moving around as five separate bills which are now being consolidated as one proposal. Mr. Manning stated he has not seen a draft of this consolidated proposal to date and noted the hearing should be fascinating with all that is going on regarding this important issue. Mr. Manning stated he was able to meet with several legislators to discuss bills and this upcoming hearing. The CGC has put together a two page outline discussing what is of importance to groundwater agencies that should be incorporated into any proposal that moves forward regarding the Delta issue and that outline will be submitted prior to July 7th. Included in that outline are energy savings issues, monitoring, and priority on groundwater storage which are all still very important. Mr. Manning stated it was time very well spent in Sacramento this trip and noted the buzz there right now is on the budget. Mr. Manning noted in the meeting package IEUA has current detailed legislative section that covers both federal and state issues starting on page 73 of the meeting packet.

2. Recharge Update

Mr. Manning stated there is a current recharge update on the back table for review.

Added Comment:

Mr. Manning stated there is a copy of the Orange County Grand Jury Report which was just issued regarding the water situation in Orange County for informational purposes only. Mr. Manning offered comment on the report.

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

V. BOARD MEMBER COMMENTS

Mr. Rossi gave an update on Judge Field.

VI. OTHER BUSINESS

No comment was made regarding this item.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

No confidential session was held.

VIII. FUTURE MEETINGS

June 25, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
June 25, 2009	9:00 a.m.	Advisory Committee Meeting
June 25, 2009	11:00 a.m.	Watermaster Board Meeting
June 29, 2009	9:30 a.m.	CBWM Court Hearing – San Bernardino Court
July 9, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting
July 21, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
July 23, 2009	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
July 23, 2009	9:00 a.m.	Advisory Committee Meeting
July 23, 2009	11:00 a.m.	Watermaster Board Meeting
July 23, 2009	1:00 p.m.	WE Workshop #3 Task 4.3 and Task 6.2

The Watermaster Board meeting was dismissed by Chair Willis at 12:30 p.m.

Secretary: _____

Minutes Approved: July 23, 2009