

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

July 23, 2009

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on July 23, 2009 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair
Charles Field
Bob Kuhn
Jim Curatalo
Michael Whitehead
Michael Camacho
Bob Bowcock
Geoff Vanden Heuvel
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
Sandra Rose
Robert DeLoach
Marty Zvirbulis
Mohamed El Amamy
Dave Crosley
Raul Garibay
Robert Young
Jeff Pierson
Jennifer Novak
Robert Tock
David DeJesus
Tim Min Mack
Terry Catlin
Martha Davis
Eunice Ulloa
David Penrice
Justin Brokaw
Charles Moorrees
Jack Safely

Monte Vista Water District
Monte Vista Water District
Cucamonga Valley Water District
Cucamonga Valley Water District
City of Ontario
City of Chino
City of Pomona
Fontana Union Water Company
Agricultural Pool, Crops
State of California Department of Justice, CIM
Jurupa Community Services District
Three Valleys Municipal Water District
Ontario/CDA
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Chino Basin Water Conservation District
Aqua Capital Management
Marygold Mutual Water Company
San Antonio Water Company
Western Municipal Water District

Harold Lea	FTI
Georgina Martinez	FTI
Kristi Kuhlmann	Black & Veatch
Andrew Lazenby	Black & Veatch

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

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

No public comment was made.

AGENDA - ADDITIONS/REORDER

No additions or reorders were made to the agenda.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Watermaster Board Meeting on June 25, 2009

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of June 2009
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2008 through May 31, 2009
4. Treasurer's Report of Financial Affairs for the Period May 1, 2009 through May 31, 2009
5. Budget vs. Actual July 2008 through May 2009

C. INTERVENTION INTO THE AGRICULTURAL POOL

1. Intervention into the Agricultural Pool from Guillermo Hurtado through the Well Used by Alfredo Jara's Mountain Green Nursery

D. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – Monte Vista Water District will purchase 3,500 acre-feet of water from the City of Pomona. This purchase is made first from Pomona's net underproduction, if any, in Fiscal Year 2008-09, with any remainder to be recaptured from storage. Date of application: May 11, 2009
2. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company has agreed to purchase from The Nicholson Trust annual production right in the amount of 5.619 acre-feet to satisfy a portion of the company's anticipated Chino Basin replenishment obligation for Fiscal Year 2008-09. Date of application: May 21, 2009
3. **Consider Approval for Notice of Sale or Transfer** – On June 3, 2009, Watermaster received Form 5, "Application to Transfer Annual Production Right or Safe Yield," with CalMat Company/Vulcan Materials Company as transferor and Aqua Capital Management LP as transferee in the amount of 317.844 acre-feet annual right, all water in its annual account will be transferred as well (the transfer does not include CalMat's water in storage as of June 30, 2008 of 315.637 acre-feet). Date of application: June 1, 2009
4. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 3,400 acre-feet of water from the Marygold Mutual Water Company. Water will purchase the water at \$295.00 per acre-foot, which is the MWD replenishment rate (not including IEUA and OCWD fees). The transfer will be made from Marygold Mutual Water Company's water in storage. This transfer will solely offset Fontana Water Company's current (Assessment Year 2008-2009)

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

Moved to approve Consent Calendar A through D, as presented

II. BUSINESS ITEM**A. WATERMASTER AUCTION**

Mr. Manning stated in furtherance of the Watermaster auction process, we will retain the services of a professional auctioneer; FTI/Harold Lea has been the chosen facilitator for that process and staff is seeking a motion to retain that firm. Mr. Manning stated four firms were considered for professional auction services and after interviews with each, it was decided that FTI/Harold Lea was the best fit for our needs. Mr. Manning offered background information on FTI. Mr. Manning stated the Appropriative, Agricultural Pools, and the Advisory Committee moved to approve this item. The Non-Agricultural Pool abstained from a motion under the grounds that pool feels this is a decision solely at the discretion of the Appropriative Pool and should not be ruled on by other parties. Mr. Manning stated if this board decides to hire FTI, Mr. Harold Lea and his staff will be here for the scheduled Watermaster Workshop on August 5, 2009 to discuss the process of the auction and to do a demonstration on how the auction will take place. Mr. Bowcock commented on the recommendation of hiring FTI as the professional auction service. Mr. Bowcock offered comment on the discussion items at the workshop held on July 16, 2009 including the cost of water. Mr. Bowcock expressed his concerns with going to court on August 11, 2009 regarding the document reflecting monies going solely to certain pools and asked the Board members for some language clarification which was achieved at the recent workshop. It was noted the resolution is due to the court by August 1, 2009 which is ten days prior to the hearing. Chair Willis noted several of the parties that were at the workshop are here today and although no vote took place at the workshop, a vote will be taken today. Mr. Vanden Heuvel stated the question brought up by Mr. Bowcock needs to be interpreted by legal and stated the question presented is if the Non-Agricultural Pool has a claim to revenue derived from the leasing of storage space. Counsel Slater stated this issue was addressed at the workshop and commented on the discussions that took place at the workshop including outlining this item which was negotiated in the Peace II Agreement. A discussion regarding this matter ensued. Mr. Vanden Heuvel stated this board should go into closed session to meet with legal counsel on this issue that Mr. Bowcock has raised. Mr. Vanden Heuvel called for a closed session and Mr. Bowcock supported that call. Mr. Kuhn asked for clarification on why this board was being called into closed session. Mr. Vanden Heuvel stated points have been raised that need to be resolved prior to moving forward with the auction, meaning it is premature to hire a firm to perform an auction if it is not known if there is going to be an auction. It was noted by Mr. DeLoach there is nothing on the agenda about this matter and the only item in question for a vote is the hiring of a professional auction firm. Chair Willis made the decision not to go into closed session and to move on with the agenda item. Mr. Vanden Heuvel stated Mr. Bowcock has some legitimacy in his claim and noted this should be worked out prior to the August 11, 2009 court hearing. A lengthy discussion regarding this matter ensued. Mr. Kuhn noted he did not see how the two issues are related and made a motion to hire FTI. Mr. Vanden Heuvel made a motion to table this item. Counsel Slater offered two options to possibly resolve this dilemma; 1) Continue with present course and go to the August 11, 2009 hearing and take your chances, or 2) To attempt to defer consistent with what Director Kuhn had indicated with regard to the broad benefit standard. Counsel Slater stated the Board could tell the court that it has adopted a broad benefit standard and that there are still deliberations taking place on the questions on how to apportion that between the members of the Appropriative Pool and the Non-Agricultural Pool on August 11th and allow the parties to have further time to work it out. A report could be written back to the court if necessary if it has not been resolved by the hearing date. A discussion regarding any liability in hiring the firm ensued. Chair Willis called for a vote to either table the motion or to approve staff's recommendation to hire FTI/Harold Lea.

Motion by Kuhn, second by Curatalo, and by majority vote – Vanden Heuvel abstained
Moved to approve the retention of FTI/Harold Lea to provide auction services, as presented

B. BUDGET TRANSFER

Mr. Manning stated staff works with our consultants to come up with the best numbers for the budget; however, there are times when budget transfers need to take place. Mr. Manning noted this item was approved by the Pools and Advisory Committee. Ms. Rojo noted staff gets together to review budget and project progress. Ms. Rojo stated Watermaster staff reviews the budget items to track the progress that is being made on a monthly basis. Ms. Rojo discussed the need for shifting monies to accommodate funds needed in other categories. Ms. Rojo noted the staff report gives a breakdown on why staff is able to shift money away from some categories and why monies are needed to be added to other categories. Mr. Bowcock stated in the prior motion \$66,000 was approved to be expended to hire an auction firm and that cost is likely to go over \$100,000 and possibly up to \$250,000 by the time the entire process is complete. Mr. Bowcock asked staff to have budget transfers come first prior to the contracts coming forward for approval. Ms. Rojo stated the budget transfer that is presented in this meeting packet relates to the 2008/2009 fiscal year. The money that is being spent for the auction process would be part of the 2009/2010 budget and that money, while not set aside particularly, are available in our OBMP category. Ms. Rojo noted the cost of running the auction will be offset against the proceeds received and in the case of a failed auction, there will be a budget amendment closer to the time the Assessment Package is being put together when the budget numbers are tried up for that fiscal year. Mr. Manning offered comment on the budget and budget transfer process.

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

Moved to approve fiscal year 2008/2009 budget transfer T-09-07-01 for OBMP Condition Subsequent No. 7, Hydraulic Control Monitoring Program Water Quality Committee, and Storage Program to OBMP Data and CEO Requests, OBMP SOB Report, Groundwater Quality Monitoring Program, and Recharge Master Plan, as presented

C. REVISED FORMS

Mr. Manning stated this item has gone through the Watermaster process and has been approved at the Pools and Advisory Committee meetings. Ms. Maurizio gave the Water Transfer & Land Use Conversion forms presentation.

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

Moved to approve revised Rules & Regulations forms for Water Transfers and Land Use Conversions, as presented

III. REPORTS/UPDATES**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT****1. June 29, 2009 Hearing**

Counsel Slater stated the June 29, 2009 hearing went well and staff is pleased with the outcome. Watermaster staff and consultants did a thorough job of presenting the Watermaster position. Counsel Slater stated at the last hearing Judge Wade announced he will be retiring in September and he will not be retaining our case which will be reassigned to another judge.

B. ENGINEERING REPORT**1. Recharge Master Plan Update**

Mr. Wildermuth stated with regard to the Recharge Master Plan, Wildermuth Environmental has done some internal re-scoping and scheduling. For the storm water component there is expected to be a draft task memorandum for comment in September that will cover the local and regional facilities and discuss the impact on safe yield. With regard to the replenishment water requirements there were task memorandums produced on this in March and a revised one in April and we are still waiting on comments. To date only Inland Empire Utilities Agency has submitted any comments and it appears no others are to be submitted and those will be incorporated into the memorandum and will be sent out as final.

Black & Veatch has been working on supplemental water recharge alternatives. A draft task memorandum is expected sometime in August from them. The draft Recharge Master Plan report should go out in draft form in January, 2010 which will give staff six months to iterate and review that report.

2. CEQA Modeling Assessment of Peace II

Mr. Wildermuth stated there are two part parts to the CEQA process and one of those parts relates to the Recharge Master Plan. In the Peace II work and the Dry Year Yield work there was reduced projected pumping because of problems with supplemental recharge. It was suggested at the end of the DYY CEQA work that all the pumping could be recovered if; 1) staff was more creative about recharge and went beyond the current paradigm of just buying water in arrears from Metropolitan Water District (MWD) at the replenishment rate, and 2) staff can work with the Appropriators to take a look at where water is recharged and where they pump and then optimize that. Staff is internally committed to have this report out for Watermaster staff review and Inland Empire Utilities Agency staff review at the end of next week. There is a scheduled workshop today to go over the major findings of that report and to discuss supplemental water other than MWD for replenishment purposes. A discussion regarding Mr. Wildermuth's presentation including costs of various types of water ensued.

C. FINANCIAL REPORT

1. Year End Reporting

Ms. Rojo stated staff is still working on getting year-end production numbers and then the Water Activity Reports will go out shortly thereafter. Currently staff is working on Voluntary Agreements.

D. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated the legislative leaders got together recently and came up with a tentative agreement on the budget which calls for \$15 billion dollars in cuts and several other concessions that are going to be going on within the process. Mr. Manning stated Prop 1A is expected to be enacted which will cause borrowing from cities, counties, and special districts; how that is going to take place is unknown at this time. Watermaster does not have any threat at this time against its monies that have been set aside for projects and/or activities. A brief discussion regarding revenue streams ensued.

2. Recharge Update

Mr. Manning stated the first draft for year-end numbers on captured recharge water is available on the back table for your review. Mr. Manning stated some of the numbers might be changed slightly as the numbers are audited. This has been an average year to be able to get water in and recharged; and 2,600 acre-feet of recycled water was able to be put into some of the basins. There has been no word from Metropolitan Water District regarding availability of replenishment water for the upcoming fiscal year.

3. Watermaster Policies

Mr. Manning stated this is an information only item and this item will be brought forward more in the upcoming months. Mr. Manning stated Watermaster operates by using a variety of different documents regarding procedures and operations; staff is attempting to consolidate those in an actual Policy Manual. This manual will come to you in two segments. First there will be those that are easily identifiable and non-controversial; after that, a series of additional policies that will have greater implications and may require discussion and/or input will be brought forward. This will then become a regular part of the agenda as this manual is refined.

Added Comment:

Mr. Manning announced the upcoming follow-up Strategic Planning Conference will be held on September 28 & 29, 2009, with a golf tournament on September 28th at Oak Quarry Golf Course in Riverside following a kick-off reception at the golf course and then an all day conference at the Etiwanda Gardens in Rancho Cucamonga on September 29th. Invitations will go out next week. Mr. Manning stated this will be a follow-up conference from the 2008 Lake Arrowhead Strategic Planning Conference on the Recharge Master Plan Update and encouraged all parties to attend this important conference.

IV. INFORMATION1. Newspaper Articles

No comment was made regarding this item.

V. BOARD MEMBER COMMENTS

Mr. Vanden Heuvel commented on his recent absence from Board meetings and noted the challenges of being in the dairy business in these tough times.

Chair Willis offered comment on the recent Inland Empire Utilities Agency article in the Los Angeles Times on their reuse program and in their efforts to conserve water.

Mr. Whitehead complimented Watermaster for taking the action it did today in approving the contract with the auction consultant. Mr. Whitehead noted the differences on the internal allocation of some of the revenue that might be produced from the sale and storage of the water and noted that a careful examination of the issues that were raised during the auction discussion needs to be done. Mr. Bowcock stated this could get resolved in a very brief closed session now. A discussion regarding the closed session ensued and it was noted the closed session would convene.

VI. OTHER BUSINESS

No comment was made regarding this item.

The regular open Watermaster Board meeting was convened to hold its confidential session at 12:05 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 committee meeting for the purpose of discussion and possible action.

The closed session was convened at 12:30 p.m.

Counsel Slater stated the Board met in closed session pursuant to Rules and Regulations section 2.6 and provided direction to legal counsel to prepare a stipulation and to circulate the stipulation in an effort to resolve a potential claim at the August 11, 2009 hearing. Appropriate meetings will be scheduled to act upon the proposed stipulation.

VIII. FUTURE MEETINGS

July 23, 2009	8:00 a.m.	IEUA DYY Meeting @ CBWM
July 23, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
July 23, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM
July 23, 2009	1:00 p.m.	Recharge Master Plan Workshop #3 @ CBWM
July 29, 2009	9:00 a.m.	GRCC Meeting @ CBWM
August 5, 2009	10:00 a.m.	Watermaster Workshop @ CBWM

Minutes Watermaster Board Meeting

July 23, 2009

August 11, 2009	9:30 a.m.	CBWM Hearing @ San Bernardino Court
August 13, 2009	8:00 a.m.	MZ1 Technical Committee Meeting @ CBWM
August 13, 2009	10:00 a.m.	Appropriative & Non-Agricultural Pool Meeting @ CBWM
August 18, 2009	9:00 a.m.	Agricultural Pool Meeting @ IEUA
August 18, 2009	8:00 a.m.	IEUA DYY Meeting @ CBWM
August 27, 2009	9:00 a.m.	Advisory Committee Meeting @ CBWM
August 27, 2009	11:00 a.m.	Watermaster Board Meeting @ CBWM

The Watermaster Board meeting was dismissed by Chair Willis at 12:32 p.m.

Secretary: _____

Minutes Approved: August 27, 2009