

Minutes
CHINO BASIN WATERMASTER
ANNUAL WATERMASTER BOARD MEETING
January 28, 2010

The Annual Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on January 28, 2010 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair
Michael Camacho
Charles Field
David DeJesus
Michael Whitehead
Bob Bowcock
Tom Haughey
Geoffrey Vanden Heuvel
Paul Hofer

West End Consolidated Water Company
Inland Empire Utilities Agency
Western Municipal Water District
Three Valleys Municipal Water District
Fontana Water Company
Vulcan Materials Company
City of Chino
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

Brownstein, Hyatt, Farber & Schreck
Brownstein, Hyatt, Farber & Schreck

Others Present

Terry Catlin
Mark Kinsey
Mike Sovich
John Mura
Jeff Pierson
Bob Feenstra
Tom Harder
Ron Craig
Gil Aldaco
Eunice Ulloa
Ken Jeske
Mohammed El-Amamy
Scott Burton
Raul Garibay
Curtis Stubbings
Dave Penrice
Bob Lawhn
Brian Geye
Jorge Rosa
Steve Arbelbide
David Starnes
Kevin Sage
Roger Han

Inland Empire Utilities Agency
Monte Vista Water District
Three Valleys Municipal Water District
City of Chino Hills
Ag Pool – Crops
Dairy
Jurupa Community Services District
City of Chino Hills
City of Chino
Chino Basin Water Conservation District
City of Ontario
City of Ontario
City of Ontario
City of Pomona
Praxair, Inc.
Aqua Capital Management
RRI Etiwanda
Auto Club Speedway
Southern California Edison
California Steel Industries
Swan Lake Mobile Home Park
Vulcan Materials Company
Praxair

Dave Crosley	City of Chino
Robert DeLoach	Cucamonga Valley Water District
Marty Zvirbulis	Cucamonga Valley Water District
Kathy Tieg	Cucamonga Valley Water District
Chuck Hays	City of Fontana
Dennis Poulsen	California Steel Industries
Ken Jeske	City of Ontario
Allen W. Hubsch	Hogan & Hartson
Marguerite Battersby	Sheppard Mullin Richter & Hampton LLP
Geoff Willis	Sheppard Mullin Richter & Hampton LLP
Ben Lewis	Golden State Water Company
Jill Willis	Best Best & Krieger

Chair Willis called the Annual Watermaster Board meeting to order at 11:05 a.m.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

No public comments were made.

AGENDA - ADDITIONS/REORDER

No additions or reorders were made to the agenda.

INTRODUCTIONS - CALENDAR YEAR 2010 WATERMASTER BOARD MEMBERS

Bob Bowcock	Non-Agricultural Pool
Michael Camacho	Inland Empire Utilities Agency
Tom Haughey	City of Chino
Charles Field	Western Municipal Water District
Paul Hofer	Agricultural Pool (Crops)
Bob Kuhn	Three Valleys Municipal Water District
Geoffrey Vanden Heuvel	Agricultural Pool (Dairy)
Michael Whitehead	Fontana Water Company
Ken Willis	West End Consolidated Water Company

RECOGNITION OF OUTGOING WATERMASTER BOARD MEMBERS

1. Mr. Jim Curatalo, Cucamonga Valley Water District
Mr. Willis read the commendation presented to Mr. Curatalo and thanked him for the two years served on the Watermaster Board. Mr. Curatalo thanked his fellow Board members and Watermaster staff and wished the new Board members the best for their new term.

I. CALENDAR YEAR 2010 OFFICERS – Action

A. ELECTION OF OFFICERS

1. Nominations will be heard for Watermaster Board Chair
Ken Wills from West End Consolidated Water Company was nominated and voted as Board Chair unanimously.
2. Nominations will be heard for Watermaster Board Vice-Chair
Michael Camacho from Inland Empire Utilities Agency was nominated and voted as Board Vice-Chair unanimously.
3. Nominations will be heard for Watermaster Board Secretary/Treasurer
Michael Whitehead from Fontana Water Company was nominated and voted Secretary/Treasurer unanimously.

II. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Advisory Committee meeting held on December 17, 2009

B. FINANCIAL REPORTS

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

C. CHINO BASIN WATERMASTER INVESTMENT POLICY

Resolution 10-01 – Resolution of the Chino Basin Watermaster, San Bernardino County, California, re-authorizing the Watermaster's Investment Policy

D. LOCAL AGENCY INVESTMENT FUND

Resolution 10-02 – Resolution Authorizing Investment of Monies in the Local Agency Investment Fund (LAIF)

E. NOTICE OF INTENT

Annual Filing of Notice of Intent Regarding the Determination of Operating Safe Yield

F. NOTICE OF AVAILABILITY

Notice of Availability Pursuant to Judgment Exhibit "G"

G. WATER TRANSACTION

Consider Approval for Notice of Sale or Transfer – The City of Upland will purchase 6,500 acre-feet of water from the West End Consolidated Water Company. This purchase is made first from West End's OSY account of 947.714 acre-feet, second from the carryover account of 947.714 acre-feet, and the remainder from the excess carryover account in the amount of 4,604.752 acre-feet. Date of application: November 9, 2009 ¹

Motion by Camacho, second by Willis and by unanimous vote

Moved to approve Consent Calendar item A through E and G, as presented

Mr. Bowcock pulled item F - Notice of Availability for discussion. Mr. Manning stated it is noted in the Peace II Agreement there was an arrangement made by the parties between the Overlying Non-Agricultural Pool and the Appropriative Pool that Watermaster will be notified by Overlying Non-Agricultural Pool members by December 31st of each year if there will be water made available to Watermaster to purchase under terms of that agreement. Mr. Manning stated by January 31st of each year, Watermaster would provide a Notice of Availability to each of the Appropriators; this year none of the Overlying Non-Agricultural Pool members made Watermaster aware of any water available for sale. Mr. Manning noted even though there is no water being made available; Watermaster is required to provide this Notice of Availability. Mr. Manning acknowledged this is the first time this Notice of Availability would be called upon to be placed into the package as official notice. Mr. Bowcock stated he agrees with the Notice of Availability and recognized that none of the Overlying Non-Agricultural Pool members has any water available for Watermaster this year. A brief discussion ensued and it was acknowledged the Notice of Availability notice was officially placed in the package.

¹ Mark Wiley, Water Operations Manager, City of Upland, on January 21, 2010 changed the discrepant .18 acre-foot of water from the 4604.752 changing it to 4604.572 to allow the final number to remain the same at 6,500 acre-feet

Motion by Camacho, second by Willis and by unanimous vote

Moved to approve Consent Calendar item F regarding the Notice of Availability, as presented

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Santa Ana Critical Habitat

Counsel Slater offered history regarding this item and stated this item was reported on at all the Pool meetings and Watermaster is still planning on submitting a comment letter by February 5, 2010 which is the due date for comments.

2. Auction Process

Counsel Slater stated there have been meetings of the Appropriate Pool members to decide what to do regarding the postponement of the November auction. The Appropriate Pool members have had substantive discussions and are moving forward with different ideas. One of the outcomes of the last meeting was to engage Dr. David Sunding to perform an economic analysis of some of the different options being discussed. Counsel Slater stated Watermaster staff did have a conference call with Dr. Sunding recently and explained the needs for this project and he is moving ahead with a preliminary analysis. Counsel Slater stated discussions are also taking place with FTI, who was hired as the auction administrator and noted those discussions are related to possible options regarding the restructuring of FTI's contract. Mr. Manning noted Dr. Sunding did not have a quote prepared for his work. The first step would be a cursory overlook at the issue of Metropolitan Water District water rate increases, which should be minor in cost; and the second cost is unknown at this point in time. Chair Willis inquired as to Dr. Sunding's background and a discussion regarding his credentials ensued. Mr. Vanden Heuvel inquired about cost and contract. Counsel Slater noted a contract has not been received to date. However, discussions have taken place with Dr. Sunding as to what the tasks will be. Counsel Slater also clarified Dr. Sunding will be working for Watermaster; although any Pool is free to hire him. A discussion regarding Dr. Sunding's fees and payment ensued and Mr. Manning noted the cost may or may not go through the Watermaster process because the CEO's signing authority is for \$10,000. Mr. Manning went through the process that Dr. Sunding will go through to perform this task. Counsel Slater offered comment on Watermaster members' decision points on Dr. Sunding's upcoming reports. Mr. Vanden Heuvel noted his concerns regarding payments and direction given to Dr. Sunding and that he would feel more comfortable if Dr. Sunding was retained by the Appropriate Pool. Dr. Sunding would be accountable to the Appropriate Pool and give them his advice, and that way clarity is maintained. Mr. Vanden Heuvel reiterated his thoughts and concerns as a Watermaster Board member. Mr. Kinsey offered observations on Mr. Vanden Heuvel's comments and agreed with the suggestion of the Appropriate Pool taking the lead on this endeavor. Mr. Bowcock inquired how the water is being held and Mr. Kinsey stated the water is being held in trust by Watermaster for the benefit of the Appropriators. A lengthy discussion regarding the study contents, economic terms, costs, export, and parties involved, loss rate, and auction financial benefit ensued. Mr. Manning clarified the words "trust account" and acknowledged Mr. Kinsey means the word "trust" as a term of art. Mr. Vanden Heuvel inquired if the first payment has been made to the Non-Agricultural Pool members. Mr. Manning stated the first checks were mailed in January. A discussion regarding other water auctions ensued. Mr. Hubsch stated in the view of the Non-Agricultural Pool the water has not been purchased by Watermaster appropriately and is still in possession of and owned by the Non-Agricultural Pool. Mr. Hubsch commented on the Notice of Availability and this being the first time it has ever been required with regard to Peace II requirements. Chair Willis noted this is only an information item on the agenda.

3. Chino Airport

Counsel Slater stated this item will be covered in the closed session. Counsel Slater noted that the discussions/negotiations regarding the Chino Airport Contamination Plume continue and a Notice of Intent to Sue has been filed with San Bernardino County in order to allow us to directly negotiate and for the Chino Airport to involve their insurance sources. Mr. Bowcock inquired if the Watermaster has authorized the Notice of Intent to Sue or will that be sought in closed session. Mr. Manning noted the Notice of Intent to Sue was authorized by the Watermaster Board several months ago.

B. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated that legislatively the most noteworthy topic from this month is the state of the address the governor gave recently. At that address the governor had a lot of points about having the water bond as a primary focus of this New Year. The governor also made a commitment to education to not make major cuts in the areas of education, which means he is going to look at filling in the gap of about \$20 billion dollars from other potential funds. This could mean our parties will be looking at additional financial impacts somehow. Mr. Manning referenced a news article in the meeting packet from the San Gabriel Tribune blog that was published right after Christmas that appears to be of interest and summarizes how some people feel about water.

2. Recharge Update

Mr. Manning stated the recharge numbers for November, 2009, are on the back table for your review. It appears December will be a much better month as far as recharge is concerned and the December report will be available by the next Advisory Committee meeting.

3. Policy Manual

Mr. Manning stated this item has been discussed in the last several months. A group of producers have been reviewing the Policy Manual and have made recommendations. Watermaster is in the process of going through the recommendations and working on format and revisions. A workshop on the Policy Manual was held on January 25, 2010 and was well attended. Mr. Manning noted the Policy Manual will go into the package in February for discussion/possible action.

4. Chino Basin Watermaster Thirty-Second Annual Report

Mr. Manning stated Chino Basin Watermaster Thirty-Second Annual Report is now available on the back table for you to take a copy and is in the Watermaster Board members meeting packets. As a reminder, Watermaster is trying to cut costs and is no longer mailing such reports unless arrangements are made to do so.

Added Comment:

Mr. Manning stated the USGS has put out the results from the GAMA Study that was done in the upper watershed. It will be made available shortly and since it just came out he will review it and come back with a report at a future meeting.

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

V. BOARD MEMBER COMMENTS

Mr. Bowcock introduced Allen Hubsch from Hogan & Hartson law firm and stated this morning that the Non-Agricultural Pool elected to hire its own counsel. Mr. Hubsch confirmed the Non-Agricultural Pool members hired his firm. Mr. Hubsch stated he would like to clarify a couple of points for the record.

The Non-Ag Pool would like to recognize the Notice of Availability that had been circulated uniquely this year. The Non-Ag Pool would like to reflect that the pool did have a significant amount of water in storage at December 31, 2009, and chose not to make it available. There was a statement made on the auction process that the water has been paid for. However, payment has been tendered but it was tendered improperly according to the Non-Agricultural Pool because the Notice of Intent to Purchase was not properly delivered. As a result of the Non-Agricultural Pool's position, the notice was never properly tendered and none of the members of the Non-Agricultural Pool who were present at the meeting this morning has accepted the tendered payment. Mr. Hubsch requested he be allowed to participate in the closed session today and cited a portion of the Rules and Regulations.

Counsel Slater stated the Notice of Availability being in this particular meeting package and not any other meeting package comes directly from an amendment to the Judgment. Counsel Slater stated it was an attachment item to the Peace Agreement - Exhibit G and summarized the meaning of the exhibit. Counsel Slater noted that if the Non-Agricultural Pool elects to make water available; there is a process under which that water would be required. There is no requirement for the Non-Agricultural Pool members to say that they don't intend to make water available. However, there is a requirement if the Non-Agricultural Pool members wish to dispose of their water that they identify it. Counsel Slater reiterated that this is found in Exhibit G paragraph 9(a) and counsel read the paragraph 9(a) verbatim. Counsel Fife stated this year Watermaster included a notice in the meeting package stating that there is no water available; the Non-Agricultural Pool members have not identified any water to be purchased by the Appropriators in accordance with the Judgment Amendment. A discussion regarding when this rule became effective and counsel noted it became effective upon the entry of the Judgment's final order on December 27, 2007, being applicable in 2008 not 2007. Ms. Battersby introduced herself and noted she is the legal counsel for California Steel Industries. Ms. Battersby stated she supports Mr. Hubsch's request to be present in the closed session today regarding the Non-Ag Notice of Intent and she would also like to be present during that closed session. Chair Willis stated the members will go into closed session without Mr. Hubsch and Ms. Battersby. A lengthy discussion regarding Non-Agricultural Pools' legal counsel being present in the closed session ensued. Both Mr. Hubsch and Ms. Battersby claimed a lawsuit might be pending. Chair Willis confirmed his decision to not allow the two lawyers into the closed session after Counsel Slater read and discussed the applicable rule 2.6 which pertains to confidential sessions.

VI. OTHER BUSINESS

Mr. Feenstra offered comment regarding the potentially involved parties of the Ontario and Chino Airports plumes. They have met with residents and are offering potable water as well as other water for uses for cooking, showering, etc. Mr. Feenstra asked that this item be placed on the next Agricultural Pool agenda.

The regular open Watermaster Board meeting was convened to hold its confidential session at 11:56 a.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.

1. Non-Agricultural Pool Purchase and Sale Agreement
2. Chino Airport PRP Negotiations

The closed session was convened at 1:05 p.m.

Mr. Manning stated there were some action items taken by the Board and they are as follows:

1. Mr. DeLoach and Mr. Catlin were present in their respective positions; Mr. DeLoach is the chairman of the Advisory Committee and Mr. Catlin is the alternate to IEUA and the Board authorized them to stay in closed session.

2. The Board has asked that in relationship to the issue with the Chino Airport and the Notice of Intent under RCRA that staff provide a chronology of events so they can appropriately evaluate Watermaster's position on an on-going basis.
3. Watermaster staff supply them with copies of the Board minutes of August 27, 2009, so that they can look at them.

These are the only formal actions taken by the Watermaster Board.

VII. FUTURE MEETINGS

January 25, 2010	10:00 a.m.	Policy Manual Workshop @ CBWM
January 26, 2010	9:00 a.m.	GRCC Meeting @ CBWM
January 28, 2010	9:30 a.m.	Special Non-Agricultural Pool Meeting @ CBWM
January 28, 2010	11:00 a.m.	Annual Watermaster Board Meeting @ CBWM
February 4, 2010	1:00 p.m.	Joint Appropriative & Non-Agricultural Pool Mtg. @ CBWM
February 11, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
February 18, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
February 18, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
February 25, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

The Annual Watermaster Board meeting was dismissed by Chair Willis at 1:07 p.m.

Secretary: _____

Minutes Approved: February 25, 2010