

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING
February 25, 2010

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on February 25, 2010 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair
Terry Catlin
Charles Field
Bob Kuhn
Robert Young
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

ABSENT WATERMASTER BOARD MEMBERS

Michael Camacho
Michael Whitehead

Inland Empire Utilities Agency
Fontana Water Company

Watermaster Staff Present

Kenneth R. Manning
Ben Pak
Danielle Maurizio
Sherri Lynne Molino

Chief Executive Officer
Senior Project Engineer
Senior Engineer
Recording Secretary

Watermaster Consultants Present

Scott Slater
Michael Fife

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

Others Present

Ken Al-Imam
Mark Kinsey
David DeJesus
Rick Hansen
Steve Kennedy
Shaun Stone
Karen Johnson
Josh Swift
Tom Crowley
Jeff Pierson
Bob Feenstra
Pete Hall
Jennifer Novak
Tom Harder
Ron Craig
John Mura
Eunice Ulloa
Ken Jeske
Tim Hampton

Mayer Hoffman McCann P.C.
Monte Vista Water District
Three Valleys Municipal Water District
Three Valleys Municipal Water District
Three Valleys Municipal Water District
City of Upland
Water Resources Planning
Fontana Water Company
West Valley Water District
Ag Pool – Crops
Dairy
State of California – CIM
State of California Department of Justice
Jurupa Community Services District
City of Chino Hills
City of Chino Hills
Chino Basin Water Conservation District
City of Ontario
City of Pomona

Gary Meyerhofer
Jack Safely
Dave Penrice
Brian Geye
Dave Crosley
Ben Lewis
Steve Hoch
John Schatz

Carollo Engineers
Western Municipal Water District
Aqua Capital Management
Auto Club Speedway
City of Chino
Golden State Water Company
Brownstein, Hyatt, Farber & Schreck
John J. Schatz, Attorney at Law

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

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER

Chair Willis stated there is an item added to the agenda. Chair Willis stated Sheri Rojo, who has been with Chino Basin Watermaster for eight years, has decided to leave Watermaster and start her own business. Ms. Rojo stated when she started with Watermaster she knew very little about water. However, over the past eight years she has learned a great deal about water and has grown a lot. Ms. Rojo thanked the Board members and parties present for the faith and confidence that was bestowed upon her to run the finances and the accounting aspect of Watermaster. Ms. Rojo noted she has a lot of respect for this Board and their positions because the decisions that the Board makes really do affect the lives of many people now and in the future. Mr. Manning stated Sheri has been an invaluable part of the Watermaster team and he thanked her and wished her well in her new business endeavor. The Board collectively thanked Ms. Rojo for a job well done.

Mr. Manning noted the revised agenda which was noticed to the parties added a closed session to discuss the Chino Airport water quality litigation and the potential Overlying Non-Agricultural Pool Paragraph 31 Motion.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Annual Watermaster Board Meeting held January 28, 2010

B. FINANCIAL REPORTS

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

Mr. Bowcock asked that the Consent Calendar items be pulled from the agenda for discussion. Mr. Bowcock noted the minutes do not accurately reflect the meeting on January 28, 2010. Mr. Bowcock stated he wants the tape to that meeting preserved and verbatim minutes produced for the January 28, 2010 meeting. Mr. Bowcock stated he is going to vote no as he has consistently done during the Pool and Advisory Committee meetings to remain constant. Mr. Manning stated this item went to the Advisory Committee and Mr. Bowcock did vote no at that meeting. However, the rest of the parties present at the Advisory Committee meeting voted yes in a more than 80% vote. Mr. Vanden Heuvel inquired as to why Mr. Bowcock is voting no or what his actual objections are, as to make an informed vote himself today. Mr. Bowcock reviewed the sequence of events leading up to his decision for his no votes. Mr. Vanden Heuvel expressed his concern regarding the Non-Agricultural Pool voting no on items without a clear explanation being given and asked that the issues be dealt with prior to a vote being asked for. Mr. Field stated he would not vote no on an item unless he was given a clear and concise explanation as to why he should vote no. Mr. Bowcock stated it is too lengthy a process to be presented in its entirety and offered more information regarding the presented Financial Reports

and the history on his no votes. A discussion regarding Mr. Bowcock's comments ensued and it was noted that this will be discussed in greater detail during closed session. Counsel Slater acknowledged the Non-Agricultural Pool has asked questions and has received answers. However, the answers offered were not satisfactory to the Pool. Counsel Slater asked for direction from Mr. Bowcock as to what Watermaster and/or counsel should be doing to move this process forward. Mr. Kuhn commented that with Counsel Slater's statement, the question was answered, and the answers were given to the Non-Agricultural Pool. However, they were not satisfied with the answers. Mr. Bowcock stated not all questions were answered. Chair Willis inquired as to what will be the process to resolving this matter. Mr. Bowcock stated if the Board members want to postpone approving these items for a month, then he will commit to whatever time it takes to work with staff to get the answers needed. A discussion regarding this issue ensued. Counsel Slater stated Watermaster staff believes it has answered all the questions. Staff now needs an articulation, promptly, by the Overlying Non-Agricultural Pool as to which questions were not answered, and then, to which questions there is an unsatisfactory answer. Mr. Kuhn offered comment on negative votes. Mr. Manning assured the Non-Agricultural Pool that staff wants to work this situation out swiftly and felt that all questions were addressed. Mr. Kuhn stated the minutes need to reflect there are questions which the Non-Agricultural Pool feels are not answered and this was an item of discussion. Mr. Kuhn and Mr. Willis asked that an update on the progress of this particular situation be given at the next meeting.

Motion by Kuhn, second by Willis and by majority vote – Bowcock, Vanden Heuvel, and Hofer voted no

Moved to approve Consent Calendar item A through B, as presented

II. BUSINESS ITEM

A. CHINO BASIN WATERMASTER ANNUAL AUDIT

Mr. Manning stated Mr. Ken Al-Imam is here from Mayer Hoffman McCann P.C. who was the accounting firm which performed our annual audit to give a short presentation regarding the financial statements year ending June 30, 2009. Mr. Al-Imam gave the presentation which included topics on Financial Position, Replenishment Revenues, Administrative Assessments, Operating Expenses, Required Communications, and the Objectives of an Annual Audit. Mr. Al-Imam's conclusions were that Watermaster financial statements conform to government accounting standards. No questions were asked regarding the recent audit or Mr. Al-Imam's presentation

Motion by Catlin, second by Haughey and by unanimous vote

Moved to approve filing the Chino Basin Watermaster Annual Audit, as presented

B. INFORMATION REQUESTS FROM HOGAN & HARTSON

Chair Willis asked Mr. John Mura to come to the podium. Mr. Mura, City of Chino Hills, stated he is the vice-chair of the Appropriative Pool and noted there was a special Appropriative Pool meeting today and he wanted to give the Watermaster Board the action items from that meeting: 1) Retained counsel and approved a representation agreement with John Schatz to represent the Appropriative Pool in the matter of the Non-Agricultural Pool, 2) Entered into a Consent and Waiver of Conflict of Interest, and 3) Asking Watermaster to establish a special Appropriative Pool Assessment to fund legal counsel expenses in the future in the amount of \$100,000.00. Mr. Schatz offered comment on his retention and the reasons for the need for legal retention. Mr. Schatz discussed the set budget, the special Appropriative Pool Assessment, and the parties' hopes for an expedient resolution.

Chair Willis stated I have spent a lot of years in the water arena and those of you who know me, know I have had the privilege of serving on the most important water board in the State of California; the State Water Resources Control Board. Chair Willis stated I also served on other agencies' boards here in the valley and Watermaster plays a much more important role than I realized when I first became acquainted with Watermaster. The role of Watermaster is to serve

the interest of the public good and that is primarily in the area of water quality as well as fairly sharing a resource which is absolutely necessary to the good order of the general public. The interest of the Overlying Non-Agricultural Pool, as presented to me thus far, are not in the interest to the general public but are more suited to be described as an attempt to raid the public treasury for the financial benefit of a very few number of people. This issue is not about justice, but as I see it, more in the interest of greed. The role of Watermaster must now protect the public from those of private interest who show no concern to the overall welfare of the general public who lives and works here in the Chino Basin. Let's be honest and face it, this is what we are really dealing with. I had to make that statement because I have been very displeased with things I have had to read about, and not only this matter but other issues surrounding the Chino Basin Watermaster and the Chino area in general, and public officials need to stand up and take charge; those of us who are elected to do so, need to do it.

Mr. Manning stated over the last few weeks Watermaster has received numerous requests from the law firm that has been retained by the Non-Agricultural Pool to help them better understand the situation, as they see it, relative to the notice that was filed for the Notice of Intent to Purchase. Mr. Manning reviewed the situation at hand and noted Watermaster staff and counsel has complied with the requests, copies of documents, copies of tapes, and information. Mr. Manning stated some requests that have been made are absolutely outside our boundary to approve for staff to supply to them, which is why Watermaster staff and counsel feel it necessary to present this matter to the Watermaster Board for direction. Those items are outlined in the staff report in the meeting package starting on page 55. Counsel Slater asked that the members of the Board turn to page 56 of the meeting packet to begin looking at item 1 which references a February 10, 2010, request to preserve evidence. Counsel Slater stated counsel has reviewed this request and noted it is unusual because no actual litigation has been filed by a party raising an issue. Counsel Slater stated there is an indication the Non-Agricultural Pool is intending to bring a motion under Paragraph 31. However, no copy has been received to date. The request effectively asks for preservation of electronic data to avoid the prospect that evidence or material information towards a pending case or a motion would be manipulated or destroyed in the intervening period between now and the date that the matter was heard. Such requests are not uncommon in some forms of litigation and are somewhat intrusive. In order for Watermaster to comply, it would need the retention of expertise beyond that which is possessed within the family. Counsel Slater stated that the recommendation, while we do not think Watermaster or its staff or its consultants are necessarily subjected to this, as a matter of law, or preference, would be to retain a consultant to engage a practice of preserving the requested evidence unless the board feels as if the effort is too intrusive or too expensive to comply with. Counsel Slater referenced the quotes given by outside consultants and in estimation, the cost would be approximately \$20,000.00 in excess of counsel and staffs time to comply. Counsel Slater acknowledged in the past the Watermaster Board has always encouraged the parties to meet with the propounding party to see if there is something that can be worked out which is less intrusive. In the event an agreement is not obtainable, the Watermaster has the power to appeal to the court for a protective order and a discovery order articulating what exactly should be produced, and under what circumstances. Counsel Slater expressed to the Board if they are not inclined to fund this, then the Board should tell counsel and staff to meet with the Non-Agricultural Pool and see if we can reduce the request. If we can't arrive at reasonable satisfaction, then we can seek a protective order from the court to define how it is we should comply. Counsel Slater inquired if the Board wanted to take each item separately or as one. Chair Willis stated to keep them individual and with separate motions. Counsel Slater stated the recommendation is to hire a consultant in order to appropriately comply with the request. A lengthy discussion regarding this matter ensued. Mr. Field stated he would move to approve the recommendation by counsel. Mr. Bowcock stated he heard counsel offer a resolution to possibly first have the parties meet and work things out, and he would accept that offer and encourages the Board members to do that first and take a less intrusive path. Mr. Bowcock acknowledged this all centers around the destruction of a meeting tape that was made on January 7, 2010. The argument between counsels is over whether it was destroyed according to Watermaster Policy or whether it was destroyed under

the terms of the Brown Act. Mr. Bowcock offered comment regarding the meeting tape being destroyed within a week of the meeting and its destruction being after Watermaster staff was verbally instructed on January 18, 2010, to not destroy any tapes. Mr. Bowcock stated many members of the Non-Agricultural Pool, including himself, believe the minutes of the meeting were prepared subsequent to January 18, 2010, and there is evidence of that if the parties would look at Watermaster's computers. Mr. Bowcock requested one of the Watermaster Board members go into the Watermaster computers and look for the evidence themselves so that the money does not have to be spent on an outside consultant. Counsel Slater stated counsel and staff would like to work with the Non-Agricultural Pool members to narrow the request in a way that is not unduly burdensome to Watermaster and its staff. This would need to be in the form of a motion.

Motion by Field, second by Willis and by unanimous vote

Moved to direct Watermaster staff and counsel to work with the Non-Agricultural Pool members and their legal counsel to come up with an amicable mediation on narrowing their scope of requests and then report back to the Watermaster Board, as presented

Counsel Slater stated the second item relates to the Public Records Act (PRA) request and it is Watermaster's position as the special master for the branch of the judiciary that the court and Watermaster are not subject to the Public Records Act. Watermaster has its own rules and procedures whereby Watermaster is already a transparent agency by allowing all documents to be inspected by the court. There are processes in place where virtually everything that is at Watermaster can be obtained by proper request. Counsel Slater stated Watermaster takes every effort to make available the Watermaster documents consistent with the PRA and consistent with our own internal Rules & Regulations. Counsel Slater stated some of the requests for documents are overbroad with regard to invoices which contain the attorney/client/counsel and a description of work product privileges. The attorneys' deliberations and the subject matter of communication with its client are deemed to be privileged and outside the Province of a Public Records Act request. However, there was a request for the attorneys' invoices, deliberations, and task descriptions. Counsel Slater stated counsel feels without direction from the Board, the request is too far. It was proposed to send redacted invoices which will only contain the individual items reviewed. Counsel Slater stated there is an expense related to this request for approximately 5 to 10 hours of attorney time to go through the invoices in the relevant time period. Staff and counsel are prepared to take on that effort if the Board gives that direction. Mr. Bowcock acknowledged the Non-Agricultural Pool members do not want redacted Brownstein invoices and they are entitled to review them in their entirety. Mr. Bowcock stated if they are to be redacted then Non-Agricultural Pool members would request an independent party conduct the redacting exercise. A lengthy discussion regarding this request ensued. Mr. Field stated the issue before us is for this Board to allow parties to view privileged and inappropriate information. Mr. Bowcock noted the Non-Agricultural Pool pays a portion of the legal bills and inquired whether or not they are entitled to see the bills. A discussion regarding Mr. Bowcock's comments ensued. Mr. Field noted these are not simple questions and have a lot of overlying considerations to them. We are going to either follow the advice of our legal counsel or we are not. Mr. Field stated he recommends we follow the advice of legal counsel in these proceedings because it is clear there are parties who are significantly disgruntled. Counsel Slater stated any time the parties are willing to work with counsel and staff to narrow the request, or to work with us to retain descriptions that do not invade attorney/client work product privileges, is a welcome solution. A discussion regarding this matter ensued and Mr. Field stated he believes there is a conflict of interest with regard to Mr. Bowcock's dual role, and he intends to support staff and legal counsel's recommendation.

Motion by Field, second by Vanden Heuvel and by majority vote – Bowcock voted no

Moved to direct legal counsel to redact invoices consistent with the Public Records Act and proved invoices to Hogan & Hartson, as presented

Counsel Slater stated the third item relates to information and document requests which were just discussed regarding the preservation of a meeting tape and Watermaster's response to the process. Counsel Slater stated a summary has been prepared by counsel and that summary was presented to the Non-Agricultural Pool members and counsel. It has been followed with a request to conduct a form of forensic analysis of the Watermaster computer system that gave rise to the generation of the document. Counsel Slater stated a member of the Watermaster staff who prepares the minutes provided a step-by-step process regarding the tape in question, the process followed to prepare minutes and the tape's destruction. This summary was not sufficient to the Non-Agricultural Pool, which led to the request to have access to electronic files to presumably challenge the veracity of the description. Counsel Slater stated there is no pending matter before the court, there is no discovery order, there is no statement of what is at issue, and counsel and staff attempted to make a supreme effort in providing a summary of actions regarding this matter. Counsel Slater stated turning over Watermaster computers for forensic analysis seems beyond the scope of where we presently are legally. Chair Willis acknowledged that if Watermaster computers were subject to these forensic analyses, then every member of the Non-Agricultural Pool should reciprocate in allowing our forensic analysis of all their computers. Mr. Kuhn stated it seems there is ultimately only one question to be asked and nobody has actually asked the question and has only skated around the question. A discussion regarding opening up Watermaster computers for all to go through without a law suit ensued. Mr. Vanden Heuvel stated he agrees with staff's recommendation to deny access to Watermaster's computer system. Mr. Vanden Heuvel asked when the minutes of the January 7, 2010 meeting were prepared. Mr. Manning referenced the handout that explains the process that his administrative assist uses as the process for preparing minutes and destroying meeting tapes. It was noted that the Watermaster Board members did not have the handout and a copy would be given to them shortly. Mr. Manning acknowledged the Non-Agricultural Pool is asserting that the tape was destroyed after the instruction was given to stop all destruction of tapes. The evidence the Non-Agricultural Pool is alluding to is the creation date of January 21, 2010, on the computer. However, that is the creation date of the final minutes that are placed in the meeting packet and not the date the draft minutes are started. The draft minutes are started the Friday or Monday after the Pool, Advisory Committee, or Watermaster Board meeting. Minutes are done every single week. After the meeting the draft document is created using both a series of notes taken during the meeting, and in listening to the tape to pair up who is talking. Sherri Lynne is the only one with the ability to decipher who is speaking on the tape. After the draft document is complete she destroys the tape while keeping the draft minutes, which are then given to a staff member and legal counsel for edits. Once the edited draft minutes are complete the final minutes are then put onto the hard drive, and that is the computer reflected created date. The date for the January 7, 2010, minutes is January 21, 2010. The draft minutes were started on January 10, 2010, and the tape was destroyed on January 12, 2010. This practice is absolutely consistent with policy developed by the Watermaster Board in 1993 and has been practiced by the recording secretary since that time. Mr. Manning vowed this particular incident has been investigated thoroughly and Ms. Molino's description of events which was put together in a summary and represents the facts accurately. Mr. Manning stated the only person who has access to that data is Sherri Lynne Molino and he does not appreciate that his assistant is being called something other than forthright in this incident. Mr. Manning commented on whether or not Watermaster should respond to the request of one Board member, as opposed to the majority of the Board members. Mr. Manning stated there is a question out there for when he receives information requests from one party, who he is actually responsible to, and what priority does he have according to policies versus single Board member requests. There are a lot of issues here. However, he is entirely satisfied with the answer he received from his administrative assistant, and would hope this Board and the Overlying Non-Agricultural Pool would be as well. Mr. Vanden Heuvel thanked Mr. Manning and staff for the thorough examination of this incident and inquired if those particular minutes were presented to the Non-Agricultural Pool for approval. Mr. Manning stated they were presented in the appropriate package. However, they were approved by the Appropriate Pool and were not approved by the Non-Agricultural Pool. Mr. Vanden Heuvel inquired if the Non-Agricultural Pool articulated what the concern is with the presented minutes. Mr. Manning stated the Non-

Agricultural Pool has not stated what the inaccuracies, or misstatements are, or if there is something missing from those particular minutes. Mr. Manning stated he reviewed the minutes and they captured what was discussed and presented at the meeting. A discussion regarding the minutes ensued.

*Motion by Vanden Heuvel, second by Field and by majority vote – Bowcock voted no
Moved to deny the request to access Watermaster's computer system, as presented*

III. REPORTS/UPDATES

A. **WATERMASTER GENERAL LEGAL COUNSEL REPORT**

1. Santa Ana Critical Habitat Comment Letter

Counsel Slater stated there is a copy of a comment letter submitted by Chino Basin Watermaster regarding the opposition of the potential new designation area for the Santa Ana critical habitat.

2. Chino Airport

Counsel Slater stated negotiations continue and this item will be discussed further in closed session.

B. **ENGINEERING REPORT**

1. Recharge Master Plan Progress Report

Mr. Wildermuth stated the Recharge Master Plan has been worked on for the past eighteen months with consultants other than Wildermuth Environmental working on this project. A draft report is going to be put out late March/early April. Several workshops have been held regarding this report and the only item that has not been discussed at the workshops has been the costs. At the end of the month the costs will be presented. Watermaster staff is scheduling two half day workshops to be held in April and May, offsite of Watermaster. Mr. Wildermuth stated this report should be ready to present to the court in June.

C. **CEO/STAFF REPORT**

1. Legislative Update

Mr. Manning commented on the recent polling on the bond measure with regard to the recent storms that have taken place in California.

2. Recharge Update

Mr. Manning stated the most recent recharge report is available on the back table and noted January was a good month and it appears February recharge numbers will also come in favorably. Mr. Manning stated Metropolitan Water District was able to release 17 acre-feet of water into our basin for recharge.

3. GAMA Report Summary

Mr. Manning stated this item was discussed about a year ago when the USGS was doing some work in the upper Santa Ana Watershed. The report from that work is now available online. After reading the lengthy report, Mr. Manning wrote a summary and noted that summary is available on the back table.

4. Dr. David Sunding

Mr. Manning stated at this point in time there is no new information to report on regarding this item and Dr. Sunding has not been authorized to do any work. Any decisions regarding his work will go through the Watermaster process.

5. Budget Update

Mr. Manning stated Watermaster is starting the budget process and staff is working with consultants and such to begin gathering budget numbers. Watermaster is planning a budget Workshop to take place in May, with final approval in June.

6. Basin Plan Amendments

Mr. Manning stated he received an email from Mr. Thibeault the executive director for the Santa Ana Regional Water Quality Control Board (RWQCB). In that email Mr. Thibeault is telling his staff and the Watermaster staff that he is not going to approve the Basin Plan Amendments that would allow Watermaster to reduce the testing of wells within the Hydraulic Control Monitoring Program as Watermaster has requested until he has satisfactory evidence that the Chino Desalter Authority (CDA) is catching up with the schedule the CDA originally provided to the RWQCB. Mr. Manning stated the schedule given to the RWQCB and the court is approximately fourteen to eighteen months off schedule right now which is due to negotiations and not technical issues. Mr. Manning stated Mr. Thibeault understands that reason and is basically fining the Watermaster \$200,000 to \$250,000 a year without actually assessing a fine. Staff has approved the change for Hydraulic Control monitoring, and the EIR has been completed and is ready to be approved by the executive director. He is holding that in abidance until he is satisfied that Hydraulic Control will be achieved by the CDA. Mr. Manning stated he just received this email recently and has asked Mr. Wildermuth, in the March meetings, to provide a more detailed report on all of the elements within the Basin Plan, including some of the river issues that are starting to be dealt with. A lengthy discussion regarding this matter ensued.

Added Comments:

Mr. Bowcock stated he has two additional items that he would like discussed with the Watermaster Board today relating to information being requested from Watermaster staff that has not yet been answered. Chair Willis asked that Mr. Bowcock present the items. Mr. Bowcock stated the first item is from the Non-Agricultural Pool's counsel regarding the stored water which was moved out of the Non-Agricultural Pool's account. The questions that have been presented more than once are: where is the water, whose account is it in, and what is the date the water was transferred? Counsel Slater stated the request was received and Watermaster staff is in the process of referring out to each of the Pools the parameters of the accounting and the questions to be asked with regard to its ultimate disposition. This item will be noticed to each of the Pools and worked through the process. Counsel Slater stated there should be the ultimate exercise of discretion on the part of this Board and the Watermaster process as it relates to the accounting. Counsel Slater reiterated this will be presented in the meeting packets within the next month. Mr. Bowcock commented on interpretations made at this meeting regarding the Non-Agricultural Pool's issues and the fact that nobody can tell them where the asset is that was paid for. Mr. Manning offered comment and noted the water is still in the ground. Counsel Slater stated there is a potential application of policy, and Mr. Bowcock's characterization of Watermaster not being able to answer the Non-Agricultural Pool is not correct. The question that is trying to be raised is to present the full context of the questions presented in a way that the full impact of the accounting decision is described in a potential policy decision. Then the process can be secured with direction from the Board. A full presentation will be given next month.

Mr. Bowcock stated the second item is that the Non-Agricultural Pool was told that the Notice of Intent to Purchase the Non-Agricultural Pools water was sent out to all the parties of the Judgment by an email on August 21, 2009. On February 4, 2010 Watermaster counsel gave the Non-Agricultural Pool's counsel a copy of the August 21, 2009 email and the email does not show who the email was sent to, nor does it show any email addresses. On February 4, 2010 counsels exchanged emails and in one of the emails it states Watermaster's counsel provided a current service list and would also provide a list of the changes made to that service list since August 21, 2009. To date that has not been provided. In a subsequent email it was stated that this matter needs to be referred to the Watermaster Board and, since it was not on the agenda, it is being referred to the Board now. Mr. Manning stated he is surprised at this item being brought forward since this item has been taken care of. Mr. Manning stated Mr. Fife and Ms. Molino worked with Mr. Hubsch on this request. Counsel Slater stated he would like Mr. Fife to comment on this matter. However, with regard to the description by one Board member regarding the sequence of events for the Notice of Intent to Purchase the Non-Agricultural Pool water, it is just the opinion of one Board member and the

characterization of one Board member, and is not the opinion of counsel. Counsel Slater stated Watermaster staff or counsel has not been asked and has not provided a full summary of all of the elements of notice. If this Board desires to have an open accounting of that, counsel would be pleased to do that. Counsel Fife stated with regard to the service list item, Mr. Hubsch made the request at the February 4, 2010, meeting and directly after that meeting he met with Ms. Molino and Mr. Hubsch in the administrative office and discussed it thoroughly. Counsel Fife stated Mr. Hubsch agreed if a copy of the current service list was provided to him, and staff described the changes in writing that were made since August, 2009, that would be satisfactory. Staff provided a copy of the current service list to Mr. Hubsch and wrote out all the changes that had been made since August 21, 2009. That list was transmitted to Mr. Hubsch's office the next day or that following Monday. Counsel Slater offered Mr. Bowcock a copy of that transmittal resent to him. Mr. Manning stated he was under full understanding that this request had been satisfied and this is the first time hearing it was not done.

IV. INFORMATION

1. Newspaper Articles

No comment was made regarding this item.

V. POOL MEMBER COMMENTS

Mr. Hofer noted this is a very tenuous and fragile process and it works because we all work together. Mr. Hofer commented on the high value of water and expressed that Watermaster must maintain transparency which will be critical due to an asset that has slowly moved from essentially being private property to becoming public property and that is always a difficult situation.

VI. OTHER BUSINESS

No comment was made regarding this item.

Added Comment:

Mr. Bowcock asked that the instruction as to the confidential session and disclosure of information from the confidential session be repeated by counsel. Counsel Slater stated there are typically two instructions that relate to Board deliberations that may be pertinent in this instance. One would be the conflict of interest rules which are different at Watermaster than other boards because of our unique nature. It was noted if any Board member needs assistance with the application of those rules, counsel is available or the members can seek their own independent counsel. Counsel Slater stated with regard to the confidentiality in the attorney/client privilege of the deliberations, this is an independent entity and the members who participate in this discussion are not free to return their other businesses and/or boards and share the content of these closed sessions. Counsel Slater stated given the pending nature of a possible Paragraph 31 Motion, it has been suggested that an individual Board member should be excluded from the participation of the process on the basis that they have a conflict of interest and the subject. However, Watermaster has not taken that position and has instead relied on the fiduciary obligation of all people who are participating in the discussion to represent their interest and to honor the attorney/client and work product privileges that are contained and attached to the discussions in closed session. Counsel Slater stated, in summary, any person who participates in closed session is not to leave the closed session and have dialog with their constituent base, their employers, their employees, or unrelated parties. Mr. Bowcock stated he wants the part about the court order mentioned. Counsel Slater stated there is an ongoing set of Rules & Regulations and there is a Judgment upon which he is providing this advice. Chair Willis asked that an executive session be included on all agendas and then, if not needed, it can be removed under the agenda additions/reorder section.

The regular open Watermaster Board meeting was convened to hold its confidential session at 12:25 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.

1. Chino Airport Water Quality Litigation
2. Anticipated Non-Agricultural Pool Paragraph 31 Motion

The closed session was convened at 1:25 p.m.

Chair Willis stated the closed session is over and the Board will report there was a discussion on legal issues and gave advice to our counsel.

VIII. FUTURE MEETINGS

Thursday, February 25, 2010	9:30 a.m.	Special Appropriative Pool Meeting @ CBWM
Thursday, February 25, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, March 4, 2010	1:00 p.m.	Appropriative Meeting @ CBWM
Thursday, March 4, 2010	2:30 p.m.	Non-Agricultural Pool Meeting @ CBWM
Thursday, March 11, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, March 18, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, March 18, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, March 25, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, March 25, 2010	1:00 p.m.	Recharge Master Plan Workshop @ CBWM

The Watermaster Board meeting was dismissed by Chair Willis at 1:27 p.m.

Secretary: _____