

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

October 28, 2010

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

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair
Michael Camacho
John Rossi
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 BOARD MEMBERS ABSENT

Bob Kuhn
Charles Field

Three Valleys Municipal Water District
Western Municipal Water District

Watermaster Staff Present

Kenneth R. Manning
Joe Joswiak
Danielle Maurizio
Ben Pak
Sherri Lynne Molino

Chief Executive Officer
Chief Financial Officer
Senior Engineer
Senior Project Engineer
Recording Secretary

Watermaster Consultants Present

Scott Slater
Michael Fife

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

Others Present Who Signed In

Jack Safely
Mark Kinsey
Charles Moorrees
Tim Mim Mack
Dave Crosley
Ron Craig
Mohamed El-Amamy
Robert DeLoach
Jo Lynne Russo-Pereyra
Ben Lewis
Ryan Shaw
Terry Catlin
Steven G. Lee
Jeff Pierson
Robert Feenstra
Jennifer Novak
Ben Lewis

Western Municipal Water District
Monte Vista Water District
San Antonio Water Company
CDA
City of Chino
City of Chino Hills
City of Ontario
Cucamonga Valley Water District
Cucamonga Valley Water District
Golden State Water Company
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Reid & Hellyer for the Agricultural Pool
Ag Pool – Crops
Ag Pool – Dairy
State of California – Department of Justice
Golden State Water Company

Raul Garibay
Daryl Grigsby
Ken Jeske
Shaun Stone
Steve Kennedy
Eunice Ulloa
Robert Young
Sheri Rojo

City of Pomona
City of Pomona
California Steel Industries
City of Upland
Three Valleys Municipal Water District
Chino Basin Water Conservation District
Fontana Water Company
Visitor for Fontana Water Company

Chair Willis called the Watermaster Board meeting to order at 11:00 a.m.

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER

It was noted the Confidential Session will be taken out of order.

Chair Willis added Public Comments to the Agenda.

PUBLIC COMMENTS ADDED

Mr. Moorrees stated San Antonio Water Company has an opportunity to spread water out of their Six Basins account into the Chino Basin in the MZ1 zone. This will begin immediately; although, it is understood that notice is required and procedures and applications will need to be taken care of first with the Watermaster staff. This will go on the November agenda for the Pools and then it will go to the Advisory Committee and Watermaster Board in December. A lengthy discussion regarding this matter ensued.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Watermaster Board Meeting held September 23, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of August 2010
2. Watermaster Visa Check Detail for the month of August 2010
3. Combining Schedule for the Period August 1, 2009 through August 31, 2010
4. Treasurer's Report of Financial Affairs for the Period August 1, 2010 through August 31, 2010
5. Budget vs. Actual July 2010 through August 2010

Motion by Whitehead, second by Haughey, and by unanimous vote

Moved to approve Consent Calendar items A and B, as presented

II. BUSINESS ITEMS

A. WATERMASTER RESOLUTION NO. 10-04 FOR PHASE III DESALTER EXPANSION

Mr. Manning stated this has been a very long process; however, all parties have had an opportunity to offer comment, ask questions, and attend meetings and/or workshops on this item. Counsel Slater stated it is counsels' opinion that this Board consider moving to a closed session prior to having an open dialog on this item. Counsel Slater stated the Resolution has been clearly vetted with all of the Pools, and each of the Pools recommended Watermaster approval; the Overlying Non-Agricultural Pool action was to leave the decision to the discretion of their director how he wished to vote, based upon the final package. Counsel Slater stated comments have been received from the Agricultural Pool, the Attorney General's office, the Appropriators who are in, and outside of, the CDA Expansion Group, and from individual stakeholders on virtually every aspect. Counsel Slater stated the Resolution is lengthy and the purpose of the Resolution is to provide a summary of all the relevant evidence in considerations that were presented to this Board. A matrix was sent out previously this week which connected

each of those evidentiary items that are contained in the whereas, and then makes reference to specific findings that are being recommended for this Board to make. Counsel Slater stated the stakeholders believe that the findings are supported by the evidence that is referenced in the whereas, and that would lead this Board to specific conclusions that are contained at the end of the Resolution. Counsel Slater stated the intention is to discharge Watermaster's obligations in several regards. Watermaster has an oversight responsibility as it relates to the Desalter Expansion, and this is an important role for Watermaster to make sure that the operations of the desalters and the locations of the wells will facilitate the completion of the mission of Hydraulic Control. Counsel Slater stated this was the pre-condition established by the court for Watermaster to proceed with the Peace II Measures. The court has control over 400,000 acre-feet of water, which is called the Hydraulic Control Water, under the Judgment and that water is made available to Watermaster so long as Watermaster's operation of this project does not cause material physical harm and the project meets the objectives of securing Hydraulic Control. Watermaster has to make sure the project is reasonably calculated to achieve the objectives of Hydraulic Control and that the pursuit of Hydraulic Control does not come at the expense of any individual producer in the form of unreasonable harm or impact. Watermaster also has an economic concern and interest on behalf of all its stakeholders. Counsel Slater stated Watermaster has the traditional leadership, management and economic responsibilities to its stakeholders which makes this an important Resolution given the level of capital commitment that the stakeholders are about make. The Resolution has another function to clear the playing field of any vague uncertain or unknown claims. Counsel Slater stated this will be done by taking the Resolution, the findings, and the conclusions and ask the court for not only approval but direction to proceed in accordance with the proposed plan. Counsel Slater stated to the best of his knowledge he is representing that on behalf of the stakeholders no objections have been heard on the accuracy of the materials that are referenced in the whereas; they are true and correct. Counsel Slater offered comment on recharge and noted the Recharge Master Plan was recently approved by the court; however, there are still the funding issues and the actual implementation of the plan. Counsel Slater stated failure on the Recharge Master Plan means an economic harm will be suffered by all the parties to the Judgment. Counsel Slater offered comment on the contractual obligations of Western Municipal Water District for the Phase III Desalter Expansion. Counsel Slater discussed the Regional Board fine. Counsel Slater examined Exhibit "I" of the Resolution in detail. Counsel Slater stated it is his understanding that all of the staff and counsel for each of the CDA members, that have been presented with this Resolution, have agreed to recommend it to their individual boards and counsels; they have not taken it their respective boards or counsels yet, this will be something they do in the next 30 to 60 days. Counsel Slater stated the Appropriative Pool and Advisory Committee recommended that this Board's approval of this Resolution be coupled with the requirement that they come back with those Resolutions forthwith. Mr. Manning noted this Board could go into closed session now to deal with this issue further. Chair Willis called for closed session. Mr. Bowcock inquired if this closed session will only discuss this item or the other items on the agenda for closed session. Chair Willis stated this Board will discuss all agenzized closed session items.

The Confidential Session was taken out of order from the agenda

The regular open Watermaster Board meeting was convened to hold its confidential session at 11:40 a.m. to include Business Item A. Watermaster Resolution No. 10-4 for Phase III Desalter Expansion.

The confidential session concluded at 12:15 p.m.

Mr. Manning stated there were reportable actions from closed session; however, there are some questions that need to be asked in open session and a motion regarding the Resolution is still being sought after.

Mr. DeJesus inquired about whereas no. 7, regarding the release of responsibility. Counsel Slater stated the responsibility for completion and operation of the Desalters pertains to the

overarching obligation to complete a certain level of desalting capacity; the OBMP as approved by the court in 2000, had an open ended responsibility that was not expressly defined in terms of the total quantity of desalting that would be needed. Counsel Slater stated 10.2 releases Watermaster from having to pursue some level of desalting capacity beyond the 9 mgd we are perusing. Counsel Slater stated 7.3 contemplates Watermaster, in our opinion, as being effectively the traffic cop for operations within the basin; Watermaster does not own facilities or operate facilities for purposes of carrying out the project – this is a CDA project. Watermaster's job is to make sure that in the operation of desalters or any future desalters, that they are properly conditioned and that the production is managed in such a way to not cause material physical harm. Counsel Slater stated counsel was very careful to carry forward the express language of 7.3d because it has been negotiated and is in the Resolution. It is not being renegotiated now and everybody is relying on no change to 7.3d. This finding does not change the agreement, and it is not intended to amend the agreement.

Motion by Vanden Heuvel, second by DeJesus, and by unanimous vote
Moved to approve Resolution 10-04, as presented

B. CHINO BASIN WATERMASTER 2010-2011 ASSESSMENT PACKAGE

Mr. Manning introduced this item and noted it comes to this Board from recommendation from the Pools and the Advisory Committee. Ms. Maurizio gave the 2010-2011 Assessment Package presentation. Ms. Maurizio highlighted the changes made from last year in detail. Mr. Vanden Heuvel inquired about the checks that have not been cashed by the Non-Agricultural Pool members. Mr. Joswiak noted that is reflected in the balances of cash shown. Mr. Vanden Heuvel inquired about the Appropriators decision to charge that replenishment rate. Mr. Manning stated there was no objection to Watermaster using that rate. Mr. Vanden Heuvel inquired about a letter which was received via email from the Fontana Water Company. Mr. Manning stated that letter was received late yesterday from Fontana Water Company and the letter is asking for three things; 1) They would like discussions to begin about the issue of replenishment and how it is being done, 2) It is difficult for them to deal with responsibility for paying for replenishment in years following the actual incurrence of the replenishment obligation. They are asking for Watermaster to align those particular responsibilities with fulfillment and, 3) They are concerned that the obligation, no matter when Watermaster collects the money, is still subject to the 85/15 Rule. Mr. Manning stated the answer to the third question is yes; if Watermaster has to go back to reassess the amount necessary, then that amount is also subject to the 85/15 Rule. Mr. Manning stated Watermaster staff will contact Fontana Water Company and begin discussions; however, the content of the letter is not to object to the Assessment Package but to start dialog on how the CURO is dealt with. Mr. Whitehead stated the letter is not to object at all but to invite additional attention to the issue of replenishment including cost issues. Mr. Bowcock offered comment regarding this matter and noted it is going to take a tremendous amount of dialog to get through this problem and that Watermaster has not lived up to its obligation. Mr. Vanden Heuvel disagreed and stated he thinks Watermaster has done a phenomenal job of filling a hole with what we have and noted Fontana Water Company has no water rights and they are extremely vulnerable. Mr. Vanden Heuvel expressed appreciation that they are concerned about this matter; however, Watermaster has been doing a good job and staff is doing everything they can to help them. Mr. Whitehead stated Fontana Water Company is inviting Watermaster to devote a good deal of priority to this issue and offered comment on importing thousands of acre-feet of water into the basin. Mr. Manning stated a great deal of attention is being devoted to this item through the implementation of the Recharge Master Plan.

Motion by Haughey, second by Camacho, and by unanimous vote
Moved to approve the Chino Basin Watermaster 2010-2011 Assessment Package, as presented

C. SAN SEVAINE CHANNEL REPAIR AGREEMENT

Mr. Manning stated this item has been an issue since Christmas of 2003. Mr. Manning stated there were a series of events that occurred just prior to Christmas of 2003 from work being done on the San Sevaire Channel and on the Etiwanda Chanel – both by the County and by Watermaster in the construction of a drop inlet which was going to be installed in the Channel. There were a series of events that took place and a situation occurred that the Inland Empire Utilities Agency contractor had not anticipated. The contractor was given permission to leave the site as they did not know the County had opened up the channel between San Sevaire and Etiwanda. That allowed water to get into the Channel, therefore that water undermined all of the work that had been done on the drop inlet and undermined a large portion of the slide slopes and the bottom Channel. This required the County to get a contractor at that site on Christmas Day in 2003 to gunite the entire bottom in order to ensure the entire integrity was not lost. Since then the County has been working to restructure the Channel for the segment that was damaged during the storm. Discussions took place on payment, or the dividing of payment, and it was decided through a partnership that IEUA and Watermaster would pay 50% of the damages and the County would pay the other 50% - totaling approximately \$1 Million dollars. The County is going to begin work on this project following the rainy season this year. It is anticipated the work will take approximately six to seven months. The agreement is as soon as that work has been completed, Watermaster will reimbursement 25% of the actual amount, not to exceed the amount listed in the contract. The County has agreed to these terms and understands Watermaster does not have the funds in the budget this year for the reimbursement and that will be done in the April/May 2011 timeframe. Mr. Manning stated Watermaster counsel has been working with the County counsel on this endeavor. Mr. Manning stated staff is seeking an approval for this agreement.

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

Moved to approve the San Sevaire Channel Repair Agreement, as presented

D. BUDGET MODIFICATION

Mr. Manning introduced this item and noted Mr. Joswiak will give the full report on this item. Mr. Joswiak stated there were two special assessments last year; one was for the Non-Agricultural Pool for their legal fees of \$100,000. During the fiscal year the Non-Agricultural Pool allocated and used those funds for legal expenses. The Appropriative Pool also had a special assessment for \$100,000 for legal fees; however, that Pool did not use the entire amount and there was an amount left over. In speaking with Watermaster's external audit firm, it was recommended by them to roll the left over dollar amount into the new fiscal year budget and then if those funds are not utilized this year, to continue rolling them over into the subsequent years budget until all funds were allocated. This recommendation takes the \$63,333 and puts those funds into a general ledger account 8367 and will remain there to be used for legal fees incurred this year. Mr. Manning noted this is a different way of doing this type of action because it has been the past practice of Watermaster to zero out all funds and start with zero balances. The auditors stated this would be the most logical choice as opposed to refunding the money and then turning around and assessing the parties again for the same amount. Mr. Manning is recommending approval for this budget modification.

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

Moved to approve the budget modification, as presented

III. REPORTS/UPDATES**A. WATERMASTER GENERAL LEGAL COUNSEL REPORT****1. October 8, 2010 Hearing**

Counsel Slater stated there was a hearing on October 8, 2010 and two items were on the agenda for consideration; 1) the approval of the Non-Agricultural Pool's motion for a Judgment amendment and 2) the approval of the Recharge Master Plan. Both were approved by Judge Reichert and a copy of the order is on the back table. Counsel Slater stated the Judge seemed to really understand what was being presented and enthused to

be on our case. Counsel Slater stated a January 21, 2011 hearing was scheduled by Judge Reichert to produce an updated version of the Judgment which will include all amendments since 1978; this will then be the official Judgment for the basin after the judge approves it.

2. Paragraph 31 Appeal

Counsel Slater stated the Paragraph 31 appeal is moving forward. Counsel Slater noted in September the Appellate Court issued an order asking for more additional information and a copy of that order is on the back table. Counsel Slater stated the Non-Agricultural Pool and California Steel Industries responded to the order; however, counsel and staff has concerns they did not provide enough information to the court. Counsel Slater stated a briefing schedule has been established by the Court of Appeals and the Non-Agricultural Pool and California Steel's opening briefs are due on November 29, 2010.

B. ENGINEERING REPORT

1. Progress Report on Safe Yield Determination

Mr. Malone gave the Safe Yield Determination presentation. Mr. Malone reviewed the areas of: Safe Yield According to the Judgment, the Requirements to Re-Determine Safe Yield, Why Expect a Change in Safe Yield, and the Method to Re-Determine Safe Yield. Mr. Malone reviewed a map of the Area of Subsidence (1992-2001) and Historical Artesian Area (early 1900s) in detail. A discussion regarding Mr. Malone's presentation, water levels, and hydrology ensued.

C. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated there is still no budget; however, it is supposed to be voted on today. Mr. Manning reviewed the changes being proposed for the budget in detail. Mr. Manning stated there were a number of bills waiting to be signed by the governor. Some he did sign and some were vetoed. The bill which the Groundwater Coalition had worked on, AB2304 was vetoed. No reason was given by the governor as to why he vetoed it. Mr. Manning stated he has a comprehensive list of bills that were signed and vetoed for anybody who wants a copy of those.

2. Recharge Update

Mr. Manning stated it rained pretty well for the last few days; however, the recharge capture amount has not been tallied. The new recharge capture spreadsheet will be completed by the Advisory Committee meeting in a few weeks.

3. Strategic Planning Conference Update

Mr. Manning stated the conference was well attended and was an excellent way to kick off discussions on the implementation of the Recharge Master Plan. There were dynamic breakout groups, a panel discussion group, and many suggestions presented. Mr. Manning stated Watermaster staff has put together a draft of the large sheets of notes taken by the designated scribes and those draft notes are available on the back table.

4. Budget Projections

Mr. Manning stated the first quarterly report on budget projections will be presented in November, starting at the Appropriative Pool meeting.

IV. INFORMATION

1. Cash Disbursements for September 2010

No comment was made regarding this item.

2. Newspaper Articles

No comment was made regarding this item.

V. BOARD MEMBER COMMENTS

No comment was made regarding this item.

VI. OTHER BUSINESS

No comment was made regarding this item.

The Confidential Session was taken out of order from the agenda

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. CDA Expansion Issues
2. Non-Agricultural Pool Appeal

No action was taken on the CDA Expansion Issues or Non-Agricultural Pool Appeal.

VIII. FUTURE MEETINGS

Tuesday, October 26, 2010	9:00 a.m.	GRCC Committee Meeting @ CBWM
Thursday, October 28, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
* Thursday, November 4, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, November 4, 2010	1:00 p.m.	Appropriative Pool Meeting @ CBWM
Thursday, November 4, 2010	2:30 p.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, November 18, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, November 18, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
* Thursday, November 18, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, December 2, 2010	1:00 p.m.	Appropriative Pool Meeting @ CBWM
Thursday, December 2, 2010	2:30 p.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, December 9, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, December 16, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, December 16, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
* Thursday, December 16, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, January 6, 2011	1:00 p.m.	Annual Appropriative Pool Meeting @ CBWM
Thursday, January 6, 2011	2:30 p.m.	Annual Non-Agricultural Pool Conf Call Meeting
Thursday, January 13, 2011	9:00 a.m.	Annual Agricultural Pool Meeting @ IEUA
Tuesday, January 18, 2011	9:00 a.m.	GRCC Committee Meeting @ CBWM
Thursday, January 20, 2011	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, January 20, 2011	9:00 a.m.	Annual Advisory Committee Meeting @ CBWM
Friday, January 21, 2011	10:30 a.m.	CBWM Court Hearing @ Chino Courthouse
Thursday, January 27, 2011	11:00 a.m.	Annual Watermaster Board Meeting @ CBWM

*** Note: Date changes due to holiday schedules**

The Watermaster Board meeting was dismissed by Chair Willis at 11:40 a.m.

Secretary: _____

Minutes Approved: November 18, 2010