

**Minutes**  
**CHINO BASIN WATERMASTER**  
**WATERMASTER BOARD MEETING**

*May 26, 2011*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on May 26, 2011 at 11:00 a.m.

**WATERMASTER BOARD MEMBERS PRESENT**

Ken Willis, Chair  
Bob Kuhn  
Terry Catlin  
Bob Bowcock  
Paula Lantz  
Tom Haughey  
Geoffrey Vanden Heuvel  
Paul Hofer

West End Consolidated Water Company  
Three Valleys Municipal Water District  
Inland Empire Utilities Agency  
Vulcan Materials Company (Calmat Division)  
City of Pomona  
City of Chino  
Agricultural Pool  
Agricultural Pool

**WATERMASTER BOARD MEMBERS ABSENT**

Steve Elie  
Charles Field

Inland Empire Utilities Agency  
Western Municipal Water District

**Watermaster Staff Present**

Desi Alvarez  
Danielle Maurizio  
Joe Joswiak  
Ben Pak  
Sherri Molino

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

**Watermaster Consultants Present**

Scott Slater  
Andy Malone

Brownstein, Hyatt, Farber & Schreck  
Wildermuth Environmental, Inc.

**Others Present Who Signed In**

Ken Jeske  
Marty Zvirbulis  
Jolynne Russo-Pereyra  
Mohamed El Amamy  
Scott Burton  
Dave Crosley  
Ron Craig  
John Mura  
Ben Lewis  
Brian Geye  
Curtis Paxton  
Bob Feenstra  
Jeff Pierson  
Mark Kinsey  
Jack Safely  
Tom Love  
Craig Miller  
Karen Williams  
Eunice Ulloa  
Rick Hansen

California Steel Industries  
Cucamonga Valley Water District  
Cucamonga Valley Water District  
City of Ontario  
City of Ontario  
City of Chino  
City of Chino Hills  
City of Chino Hills  
Golden State Water Company  
Auto Club Speedway  
Chino Desalter Authority  
Agricultural Pool - Dairy  
Agricultural Pool - Crops  
Monte Vista Water District  
Western Municipal Water District  
Inland Empire Utilities Agency  
Inland Empire Utilities Agency  
Santa Ana Watershed Project Authority  
Chino Basin Water Conservation District  
Three Valleys Municipal Water Distinct

Hank Stoy  
Sheri Rojo

Cucamonga Valley Water District  
Consultant for Fontana Water Company

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

**PLEDGE OF ALLEGIANCE**

**AGENDA - ADDITIONS/REORDER**

No additions or reorders were made to the agenda.

**I. CONSENT CALENDAR**

**A. MINUTES**

1. Minutes of the Watermaster Board Meeting held April 28, 2011

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of March 2011
2. Watermaster VISA Check Detail for the month of March 2011
3. Combining Schedule for the Period July 1, 2010 through March 31, 2011
4. Treasurer's Report of Financial Affairs for the Period March 1, 2011 through March 31, 2011
5. Budget vs. Actual July through March 2011

**C. BANK OF AMERICA**

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

**D. LOCAL AGENCY INVESTMENT FUND – NEW CEO NAME ADDITION**

Revised Resolution 11-02 – Resolution Authorizing Investment of Monies in the Local Agency Investment Fund (LAIF) for Desi Alvarez to be Renamed as the Chief Executive Officer/Secretary for Chino Basin Watermaster

**E. WATER TRANSACTIONS**

1. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company ("Company") has agreed to purchase from Monte Vista Water District water in storage in the amount of 500.000 acre-feet to satisfy a portion of the Company's anticipated Chino Basin replenishment obligation for Fiscal Year 2010-2011. Date of Application: February 24, 2011
2. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 4,055.720 acre-feet of water from the City of Chino (Chino). The transfer will be made first from Chino's net under-production in Fiscal Year 2010-11, with any remainder to be recaptured from storage. Date of Application: March 1, 2011
3. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 1,595.170 acre-feet of water from the City of Pomona. The transfer will be made from the City's Excess Carryover Account. Date of Application: March 1, 2011
4. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 957.102 acre-feet of water from the Santa Ana River Water Company (SARWC). The transfer will be made first from SARWC's net under-production in Fiscal Year 2010-11, with any remainder to be recaptured from storage. Date of Application: March 1, 2011
5. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 2,233.238 acre-feet of water from the City of Upland (Upland). The transfer will be made first from Upland's net under-production in Fiscal Year 2010-11, with any remainder to be recaptured from storage. Date of Application: March 1, 2011

6. **Consider Approval for Notice of Sale or Transfer** – Chino Basin Watermaster will purchase 47.855 acre-feet of water from the City of Ontario (Ontario). The transfer will be made first from Ontario's net under-production in Fiscal Year 2010-11, with any remainder to be recaptured from storage. Date of Application: March 1, 2011

*Motion by Kuhn, second by Haughey, and by unanimous vote*

***Moved to approve Consent Calendar items A, through E, as presented***

## **II. BUSINESS ITEMS**

### **A. OUTSIDE AUDIT FIRM**

Mr. Joswiak noted this item has gone to all three pools with unanimous support. Mr. Vanden Heuvel stated the Chino Basin Conservation District uses this audit firm. Ms. Lantz stated she sits on another board which also uses Charles Z. Fedak & Company. Mr. Jeske asked if there were any further comments. No further comments were made.

*Motion by Catlin second by Vanden Heuvel and by unanimous vote*

***Moved to approve awarding a five year contract (with an optional two years) to Charles Z. Fedak & Company for Watermaster's outside audit firm, as presented***

### **B. PURCHASE OF 50,000 ACRE-FEET WATER FROM METROPOLITAN WATER DISTRICT**

Mr. Alvarez stated he is pleased to present this opportunity. The Metropolitan Water District (MWD) is making available replenishment water at the replenishment rate this year. This will present a unique opportunity for Watermaster to purchase a significant amount of water at a very low cost. Mr. Alvarez stated since this item has come up quickly, it requires that Watermaster move forward at a rapid pace and put as much water into the ground as is physically possible. Mr. Alvarez stated staff is recommending, and have initiated the purchase of, up to 50,000 acre-feet of water. This water will be put into the ground between now and the end of the calendar year. Mr. Alvarez offered comment on the 50,000 acre-feet of water. Beginning May 16, 2011, water is being delivered and spread in some of the recharge basins; to date 2,800 acre-feet of water has been spread. This opportunity has been discussed with the Advisory Committee. Mr. Alvarez stated 25,000 acre-feet of water has been purchased for pre-emptive replenishment primarily for the desalters, and 25,000 acre-feet is to be made available to those agencies which do need replenishment water. Mr. Alvarez stated there are several agencies who indicated their need and interest to purchase this replenishment water. Mr. Alvarez offered comment on the financing for this water. Mr. Alvarez stated a special assessment was discussed at the Advisory Committee and it was noted because of the impact a special assessment could have on some of the agencies, they have requested Watermaster staff to look at some alternative financing plans and bring those back at another meeting. Mr. Alvarez stated the recommendation for today is to move forward by the direction of the Advisory Committee as is presented in the staff letter in the meeting package. Mr. Vanden Heuvel inquired as to specifically what this Board being asked to do today. Mr. Alvarez stated this Board is being asked to authorize Watermaster staff to purchase supplemental water in two parts. One, for parties that are establishing replenishment accounts and authorizing Watermaster staff to proceed with the purchase of supplemental water for pre-emptive replenishment of the desalter, subject to workable findings for a financing plan; and two, to authorize general counsel to proceed, as necessary, with the appropriate court filings to expedite this process. Mr. Vanden Heuvel stated he would be willing to make that motion if that is what it takes to move this forward. Mr. Catlin inquired about some parties purchasing this water directly. Counsel Slater stated each party to the Judgment has a right to request Watermaster, on their behalf, to acquire supplemental water which they may elect to use for replenishment; this would require an agreement between those parties and Watermaster for the terms of procurement. The water would be held in a local storage agreement which each party to the Judgment has a right to receive, subject to certain conditions. The one requirement would be there be no material physical injury. Counsel Slater stated Watermaster staff is trying to exert leadership and send out the signal of conceptual approval subject to legal cleanup. Counsel Slater offered comment on some of the conditions on the purchase. Counsel Slater

stated it is not a condition on the local storage agreement but it is a condition on the purchase, and that the water must be used for replenishment purposes only. Counsel Slater stated under the Peace Agreement, local storage parties can transfer in and out, at will, of their local storage agreement. Counsel Slater stated there is a form already approved that is an appendix to the Judgment. We would ask the parties to execute and submit that form. Counsel Slater stated it would then be referred back to the Pools for them to process. Counsel Slater stated the Rules also have a requirement for a more lengthy notice; typically 21 days before the Advisory Committee is entitled to hear an application; so that period of time would have to be condensed in order to allow this to proceed as planned. Counsel Slater stated this Board has the authority to waive that period of time. Counsel Slater stated Watermaster is seeking conceptual approval to allow Watermaster to go out and work the terms under which the acquisition would be financed through Inland Empire Utilities Agency, Western Municipal Water District, or Three Valleys Municipal District on terms that would come back through the process in the form of an agreement. The other agencies are also entitled to local storage agreements and it is a pre-emptive purchase against future desalter replenishment. Counsel Slater stated there are protections built into the Appropriative Pool Pooling Plan and this is protection is against ternary by the majority and the desalter assessments are covered by the Peace Agreement. The parties can only be charged for the preceding years' replenishment obligation. Counsel Slater stated this is not deemed to be precedent; there were unusual circumstances in this transaction. Mr. Catlin inquired about storages losses being applied. Mr. Alvarez stated those losses would be applied. A discussion regarding this matter ensued. Mr. Alvarez stated this Board is making a policy decision; this is the first time the option of purchasing pre-emptive water has been exercised. Mr. Bowcock stated he supports Watermaster and the decision to purchase this water; however, he wanted to make sure the Special Assessment Table 2 is still subject to better understanding as to who is on the hook for paying for the replenishment water for the desalters. Counsel Slater stated that is staff and counsels' intention to work out the provisions under which the Special Assessment would be applied and who it would be applied to. There may be a situation where individual parties are willing to absorb a future obligation and others are not, and then they would want to hold the water and wait for that future replenishment obligation to occur. The Special Assessment is not intended to override the provisions in the Peace Agreement, they are what they are. We're going to explore the circumstances and conditions in which the replenishment water would be purchased – it would be consensual. Mr. Bowcock inquired further into Table 2. Mr. Alvarez stated Table 2 was one approach to financing this water purchase, that would be a Special Assessment based on existing provisions in Peace II. The other alternative is to look at some potential financing mechanisms that will lessen the obligation on the parties to have to meet the obligation of a Special Assessment; that can be done through modification of a Special Assessment in conjunction with financing. Ms. Rojo stated on page 141 of the meeting packet is the Table 2 which has been referenced in these discussions. Ms. Rojo stated during the Peace II discussions there were several different alternatives for how to break down the future desalter obligation costs and there were several different spreadsheets that were disseminated through the group. There was a particular formula that was agreed to. In section K of the Peace II Agreement, paragraph 6.2 references certain wording and that wording ties back to the title of the column of the breakdown of the formula that's already been agreed to. Ms. Rojo stated she does not think this breakdown of the formula accurately captures what was agreed to as a result of the Peace II process. Counsel Slater stated the Peace Agreement is the Peace Agreement and we are not discussing anything which would abnegate the Peace Agreement in the negotiated formula. Staff is articulating that if there is a global purchase of replenishment water, that's how it would be assessed; however, a pre-emptive purchase would be in accordance with the provisions of the Peace Agreement; there is no intention to change that. Staff is also saying if there are parties who, on their own, would like to stockpile water now in expectation of that desalter replenishment obligation, that Watermaster is open to allowing people to opt in and have a discussion about that over the next thirty to sixty days. Ms. Rojo noted there is a formula in Watermasters' database, and there are samples of how that replenishment water will get allocated, and it is different than the formula being presented today. Mr. Vanden Heuvel stated the public invested a lot of money in this water, now it would take a lot of cash to purchase this

water, and to be debiting this in terms of losses seems to be no good public policy. Mr. Vanden Heuvel stated he would like to see every effort made to preserve the full integrity of this purchase. Mr. Vanden Heuvel inquired about Table 1 on page 140 of the meeting packet. Counsel Slater stated there is a requirement in the Peace Agreement that provides that water held in local storage be subject to uniform losses and there are individual parties who have invested public money in putting their water into local storage agreements; there is less flexibility in dealing with a local storage agreements where the water is going to be carried over from year to year. To discriminate or to exclude an individual purchase by fewer than "all" the participants from the loss figure unless there is an engineering reported data which suggests the loss figure is less than 2%. Counsel Slater stated on the other hand, this schedule is a controlled overdraft schedule that was submitted to the court in 2007 and then as a part of the supplemental findings in 2008; the court has ordered Watermaster to proceed in accordance with that schedule unless good cause exists to deviate from it. Watermaster has the discretion to file an amendment to the schedule, provided there is a finding supporting the extension or modification of the schedule; you could, in theory, defer a draw on the controlled overdraft water which is in your schedule. Counsel Slater offered further comment on this matter. Mr. Vanden Heuvel stated with his motion to approve staff's recommendation, comes the additional provision that staff work to investigate the opportunity to use this water in such a way that it would not be lost. Mr. Kinsey offered comment on this item. Ms. Lantz inquired about the process and at which point in time do those processes get worked out; there is a 1<sup>st</sup> and a 2<sup>nd</sup> on the floor, and there are still significant questions/issues to be worked out. Mr. Vanden Heuvel stated the recommendation of staff was conceptual approval and that is all the motion does, and the motion recognizes there is a lot of work that has to be done. This is not a final motion. This Board has authorized staff to put the deal together and then it will go through the entire Watermaster process. Mr. Alvarez stated between now and the next Watermaster Board meeting this will be going through the Pool process, the Advisory Committee, and finally back to this Board. Mr. Alvarez stated part of the action this Board is taking today, is to authorize Watermaster to go back and negotiate some kind of financing arrangements and then take that back through the process. Counsel Slater stated parties have the right to put water in local storage as long as Watermaster can make a finding of no material physical harm. Counsel Slater offered final comments regarding this matter.

*Motion by Vanden Heuvel second by Lantz and by unanimous vote*

***Moved to conceptually approve: 1) Authorize individual agencies/parties to directly purchase the MWD replenishment water themselves 2) Authorize Watermaster to work with Inland Empire Utilities Agency to negotiate a potential financing plan with the goal of bringing the plan back through the Watermaster process in June for the purchase of the MWD replenishment water 3) Authorize if necessary the preparation of agreements required to implement these measures and to pursue and obtain expedited ex parte Court approval if necessary of the preemptive purchase of replenishment water and to shorten time for the review and approval of storage agreements for supplemental water for the reasons set forth below. This approval will be sought with the express acknowledgment that it does not create precedent for future preemptive purchases and that Watermaster will be submitting a broader policy application to the Court in coordination with the Recharge Master Planning effort, with an additional provision that staff work to investigate the opportunity to use this water in such a way that it would not be lost, as presented***

### **III. REPORTS/UPDATES**

#### **A. WATERMASTER GENERAL LEGAL COUNSEL REPORT**

##### **1. Restated Watermaster Judgment**

Counsel Slater stated this item is still a work in process and there is nothing new to report on at this item.

2. CDA Facilitation Effort

Counsel Slater stated the CDA process and the Restated Watermaster Judgment were eligible to be included in the July 8, 2011 court hearing based upon all reports optimistic about getting a Metropolitan Water District (MWD) action on the CDA approvals that were issued last November and December. MWD has not acted yet so there would be an incomplete filing with the court while waiting to see what MWD does. This suggests an extension to that hearing needs to be done. Counsel Slater stated a September court date seems more likely. There is an ongoing discussion between Watermaster staff and the CDA group over the location of some of the wells in the Chino Creek Wellfield, and there will be a brief meeting following the Board meeting today in which some of the technical people will get together and discuss the Wellfield progress. Counsel Slater stated other than the pending MWD decision, there are no known impediments to being able to implement the expansion project on schedule. A brief discussion regarding keeping the Regional Water Quality Control Board (RWQCB) informed of the CDA progress ensued. It was noted RWQCB will be notified of all schedule changes. Mr. Vanden Heuvel asked the Watermaster Board receive copies of paperwork that is exchanged between Watermaster and the RWQCB. Mr. Alvarez stated staff would make sure that happens.

**B. ENGINEERING REPORT**

1. GE Application for Recharge Description and Status

Mr. Malone stated this project is in the City of Ontario and has been presented previously. Wildermuth Environmental has been using Watermaster's groundwater flow model to analyze this project for the potential for material physical injury, specifically with regard to wells owned by the City of Ontario. The modeling is complete some of the results have been shared and discussed with GE and the City of Ontario. The analysis has not fully been described to the Watermaster staff. The City of Ontario and GE have asked this item not be brought to the Watermaster process in June. They wanted it deferred until July to further analyze our analysis. Mr. Vanden Heuvel stated if it looks like there is going to be a problem then he would like to be warned. A brief discussion regarding this matter ensued.

2. Summary of HCMP Annual Report

Mr. Malone stated this item is for the annual report for the Chino Basin Maximum Benefit Monitoring Program and it goes out every year. It is sometimes referred to as the Max Benefit Monitoring Program. With this annual report Wildermuth Environmental is looking at the groundwater and surface water hydrology in the southern end of the basin. The Desalter Wellfield is being looked at along with how the pumping there is changing that hydrology with respect to Hydraulic Control. Mr. Malone gave the HCMP Annual Report presentation. Mr. Malone stated the Hydraulic Control Monitoring Program and annual reporting is a commitment that Watermaster and Inland Empire Utilities Agency made to the Regional Water Quality Control Board and is written in the Basin Plan. The reason why it is a commitment is it was an exchange for Maximum Benefit Groundwater Quality Objectives for the Chino North Management Zone. The Regional Board artificially raised those water quality objectives to create a sum of capacity and allow for all the recycled water recharge and reuse that's occurring in the Chino North Management Zone without mitigation. In exchange for that, the Regional Board wanted this Monitoring Program implemented and an annual report presented on it. Hydraulic Control is the whole concept at the southern end of the basin for the Desalters to lower groundwater levels and limit the amount of rising groundwater outflow that occurs down in the Prado Basin area. Mr. Malone stated that groundwater is contaminated and the concept is to protect the water quality of the Santa Ana River. Mr. Malone stated the reviewers of this report are the Regional Board staff and, specifically, the Orange County Water District. Mr. Malone reviewed several maps in detail. A discussion regarding drawdown ensued. Mr. Harder inquired if we are still on schedule. Mr. Malone stated he did not have that answer and noted that Desi was recently at the Regional Board for a meeting. Mr. Alvarez stated he was at the meeting recently and noted we are running behind schedule. There is a revised schedule being prepared which will be submitted to the Regional Board. Mr. Malone discussed the main conclusions and the

recommendations which include eliminating surface monitoring along the Santa Ana River, and add limited monitoring along the Chino Creek. Mr. Vanden Heuvel inquired about the connection between Hydraulic Control and storage losses. Mr. Malone explained losses in this instance. Mr. Vanden Heuvel stated everything really needs to be looked at to preserve that value of water for the public. Mr. Feenstra inquired about the TCE map regarding the South Archibald Plume and stated it seems the plume has grown. Mr. Feenstra stated he is concerned about the amount of residents receiving potable water. Counsel Slater stated he wants to be clearer regarding the interface of Hydraulic Control and storage losses. Counsel Slater stated that recharge and discharge from the Santa Ana River that's caused by the operation of the Desalters is not a contractual responsibility of the parties with regard to losses. The way it was intended, and the way the agreement reads is, if Hydraulic Control is achieved from a loss standpoint that means that the discharge is 1% or less and at that point Watermaster has achieved its obligation and could set the losses at zero. Counsel Slater stated if we get Hydraulic Control there are no losses. Mr. Vanden Heuvel stated that in the future it would be good to see exactly where the Chino Airport plume is located and to see the actual concentrations of TCE.

#### **C. CEO/STAFF REPORT**

##### **1. Recharge Update**

Mr. Alvarez reviewed the current recharge numbers through April noted there is a spreadsheet available on the back table.

##### **2. FY 2010/11 Land Use Conversions and Voluntary Agreements**

Mr. Alvarez stated the assessment process has begun and letters have gone out to the Appropriators looking for land conversions and any voluntary agreements that they have entered into so that staff can move forward.

#### **IV. INFORMATION**

##### **1. Cash Disbursements for March 2011**

No comment was made regarding this item.

##### **2. Newspaper Articles**

No comment was made regarding this item.

#### **V. BOARD MEMBER COMMENTS**

Ms. Lantz stated an item came over via email, and she inquired how that reflected on the Brown Act. Ms. Lantz stated when she inquired about this she was told that Watermaster was not subject to the Brown Act and asked that be explained further. Counsel Slater stated the practice of Watermaster pursuant to the court approved Rules and Regulations, is that Watermaster will make an effort to comply with the provisions of the Brown Act unless it is effectively inconvenient to do so in the context of carrying out business. Counsel Slater offered further comment on the Brown Act. Counsel Slater stated Watermaster is an arm of the court, not a public agency, and not specifically subject to the Brown Act. Counsel Slater stated legal will put this in an abbreviated memo for your files. Ms. Lantz stated that would be appreciated.

#### **VI. OTHER BUSINESS**

No comment was made regarding this item.

The regular open Watermaster Board meeting was convened to hold its confidential session at 12:15 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. South Archibald Plume
2. Paragraph 31 Motion

The confidential session concluded at 12:30 p.m.

There was no reportable action from the confidential session.

**VIII. FUTURE MEETINGS**

Tuesday, May 24, 2011	9:00 a.m.	GRCC Meeting @ CBWM
Thursday, May 26, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, June 2, 2011	1:00 p.m.	Appropriative Pool Meeting @ CBWM
Thursday, June 2, 2011	2:30 p.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, June 9, 2011	9:00 a.m.	Agricultural Pool Meeting @ IEUA
Thursday, June 16, 2011	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
Thursday, June 16, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, June 23, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Friday, July 8, 2011	10:30 a.m.	Watermaster Court Hearing @ Chino Court

The Watermaster Board meeting was dismissed by Chair Willis at 12:31 p.m.

Secretary: \_\_\_\_\_

Minutes Approved: June 23, 2011