

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

September 22, 2011

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on September 22, 2011 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Ken Willis, Chair
Bob Kuhn
Steve Elie
Ken Jeske
Danielle Soto
Earl Elrod
Charles Field
Geoffrey Vanden Heuvel
Jeff Pierson

West End Consolidated Water Company
Three Valleys Municipal Water District
Inland Empire Utilities Agency
California Steel Industries
City of Pomona
City of Chino
Western Municipal Water District
Agricultural Pool
Agricultural Pool

WATERMASTER BOARD MEMBERS ABSENT

Tom Haughey
Bob Bowcock
Paul Hofer
Paula Lantz

City of Chino
Vulcan Materials Company (Calmat Division)
Agricultural Pool
City of Pomona

Watermaster Staff Present

Desi Alvarez
Danielle Maurizio
Joe Joswiak
Sherri Molino

Chief Executive Officer
Senior Engineer
Chief Financial Officer
Recording Secretary

Watermaster Consultants Present

Scott Slater
Mark Wildermuth

Brownstein, Hyatt, Farber & Schreck
Wildermuth Environmental Inc.

Others Present Who Signed In

Mark Kinsey
Rosemary Hoerning
Raul Garibay
Marty Zvirbulis
Jo Lynne Russo-Pereyra
Mohamed El-Amamy
Scott Burton
Bob Gluck
Dave Crosley
John Mura
Ron Craig
Bob Feenstra
Pete Hall
Jennifer Novak
Craig Miller
Terry Catlin
Jack Safely
Tom Harder

Monte Vista Water District
City of Upland
City of Pomona
Cucamonga Valley Water District
Cucamonga Valley Water District
City of Ontario
City of Ontario
City of Ontario
City of Chino
City of Chino Hills
City of Chino Hills
Agricultural Pool – Dairy
State of California, CIM
State of California, Dept. of Justice, CIM
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Western Municipal Water District
Jurupa Community Services District

Eunice Ulloa
Rick Hansen
David De Jesus
Sheri Rojo
Curtis Paxton
Hank Stoy

Chino Basin Water Conservation District
Three Valleys Municipal Water District
Three Valleys Municipal Water District
Fontana Water Company
Chino Desalter Authority
Visitor

Chair Willis called the Watermaster Board meeting to order at 11:02 a.m.

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER

There were no additions or deletions made to the agenda.

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Board Meeting held August 25, 2011 – *deferred until October*

B. FINANCIAL REPORTS

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

Motion by Kuhn second by Field, and by unanimous vote

Moved to approve Consent Calendar item B, as presented

II. BUSINESS ITEMS

A. APPLICATION OF THE 85/15 RULE (For Information and Discussion)

Mr. Alvarez stated this item is for information and possible discussion, and was originally requested by the members of the Appropriative Pool. Mr. Alvarez stated this matter has been discussed at length at the Pool meetings, which resulted in a workshop which was held on September 20, 2011. Mr. Alvarez gave the 85/15 Rule presentation, which included Background, Paying for Replenishment of Overproduction, Judgment Language, 85/15 Rule Participation, General Application, Replenishment Application, Application in Recent Assessment Packages, and Future Application. Mr. Vanden Heuvel inquired if at the workshop any decisions were made regarding if this policy would be on a go forward basis or would staff be going backwards. Mr. Alvarez stated this is going to be on a go forward basis and staff is not going to go back and recapture anything. Mr. Alvarez stated with concern to applications that Watermaster has exercised that may have been inconsistent with the language in the Judgment, that will be just past practice and we will be moving forward only. Mr. Kuhn stated, on the group that's not involved, and knowing that there were two that were not involved originally, inquired, with the others coming on, are they not involved at their choice or our choice. Mr. Alvarez stated at the time they petitioned to intervene, one of the conditions that the rest of the Pool made was that they would not be allowed to participate in the 85/15 Rule. Mr. Kuhn asked that if any party that is participating now can opt out. Counsel Slater stated the 85/15 Rule is part of the Appropriative Pool Pooling Plan and it is a part of the Judgment, so it binds the Pool until the Pool decides to propose an amendment. There is a process to go through to amend the Judgment which they could elect to pull down. Counsel Slater there is an expectation that there will be some form of rule or direction from the Appropriative Pool to confirm that what Watermaster is doing in accordance with their desires, and they desire further interpretations. Counsel Slater stated the Appropriative Pool could amend it and allow additional people opt out; they have to do that at the Pool level. Watermaster can't do that for them or if they want to interpret the rule, they need to provide that direction to Watermaster. Mr. Vanden Heuvel inquired about the 15% which is paid by the group, and if that 15% is allocated based on that year's production or on some other way.

Mr. Alvarez stated it is based on the previous year's overproduction. Mr. Vanden Heuvel stated he wants to know about the allocated collective responsibility and how that is assessed. Mr. Alvarez stated through the Assessment Package. Mr. Vanden Heuvel inquired if it is the same way the OBMP assessments are aligned with all the other assessments. Mr. Alvarez stated yes. Ms. Maurizio stated it is based on production; it's based on each party's percentage and their production percentage of the total for members of the 85/15 group in that whole. Mr. Vanden Heuvel asked for further clarification. Ms. Maurizio stated it is in the Assessment Package and explained the process in detail. Mr. Vanden Heuvel stated the 15% amounts to X number of dollars, and Watermaster needs to raise X number of dollars from the production of all the parties that are subject to the 85/15 Rule. Ms. Maurizio stated that is correct, and including the overproducers themselves, they end up paying a little piece of that also. Mr. Elie stated he was unclear on the last point, as to who was going to make the decision or is that a staff recommendation to this Board for going forward. Mr. Alvarez stated it is on a going forward basis, staff will go back to the Appropriative Pool, especially with the preemptive replenishment, and have them bless the whole concept; it will be brought back to let this Board know what the Appropriative Pool's recommendation was.

B. PRESENTATION ON THE STATE OF THE BASIN REPORT (For Information Only)

Mr. Wildermuth stated the State of the Basin report is done every two years pursuant to court order. The primary concerns of the SOB are groundwater levels, storage, subsidence and water quality. Today we will speak about groundwater levels and very briefly on storage change. Mr. Wildermuth gave the Groundwater Levels and Storage 2000-2010 presentation in detail which included review of several maps and charts on Monitoring, Elevation Contouring, Groundwater Level Changes, Precipitation in the Central Chino Basin, Level Data, Trends in Groundwater Production, and State of Hydraulic Control. Mr. Wildermuth stated there are 900 wells in total, 700 wells monitored by their well owners and data provided to the Watermaster, and 200 wells monitored by Watermaster. Management Zone 5 is a groundwater flow system that parallels the Santa Ana River. Wells SARWC-7, SARWC-11, and HCMP-8/1 are located in the eastern portion of the management zone where the Santa Ana River is recharging the Chino Basin. Mr. Wildermuth stated from 2005-2010, water levels at these wells progressively declined by about 5 to 25 feet. This drawdown is an indication that pumping at the desalter well fields is helping to achieve hydraulic control in this portion of the Chino Basin and that the recharge of the Santa Ana River is being enhanced. The Archibald-1 well is located in the southwestern portion of the management zone where groundwater is very near the ground surface and is likely rising to become flow in the Santa Ana River. Water levels at this well have remained relatively constant since monitoring began in 2000. Mr. Kuhn inquired if the Chino Basin is in good or bad shape. Mr. Wildermuth stated good; however, there are some challenges to deal with. One area is in MZ3, something has to be done to balance that out – other than that we are on track. A lengthy discussion regarding Mr. Wildermuth's presentation ensued. Counsel Slater stated the Judgment has been implementing Peace Agreements and the OBMP Implementation Plan. Counsel Slater stated it is his opinion Chino Basin has one of the more sophisticated sets of transactional environments in the state of California; you, as the Watermaster Board, sit as the traffic cop over water transfers, storage arrangements, recharge, replenishment, and you have more going on here in this basin in any given month than any other basin that he is aware of. Counsel Slater stated the reason this Board is able to do all that is this Board understands the context in which your decisions are being made; the State of the Basin Report and the basin in hi-definition creates a basis for this Board to evaluate whether a proposed activity will cause harm – which is this Board's duty. Counsel Slater stated to continually have these processes evolve and improve assists this Board in its decision making and gives the court comfort that your decisions are the appropriate decisions; it's the technical underpinning for allowing the transactions in the Basin to occur. Mr. Harder offered comment on behalf of Jurupa Community Services District regarding the decline in Management Zone 3, which is of concern, and the necessity of the Recharge Master Plan being put on the fast track. A lengthy discussion regarding Mr. Harder's comments and concerns ensued. Mr. Vanden Heuvel stated he is very sympathetic to Jurupa's concerns about Management Zone 3, as we all are. Mr. Vanden Heuvel offered further comments on the Jurupa matter and asked that Mr. Wildermuth return to one of

the color coded maps. Mr. Vanden Heuvel discussed what he saw in that map and offered history regarding this concern and inquired as to what the hydraulic justification is for continuing to assess storage accounts 2% a year. Mr. Vanden Heuvel stated he is questioning, and has been questioning, Watermaster holding the water and debiting the storage accounts. Mr. Wildermuth reviewed information on a map and discussed it in detail. Mr. Vanden Heuvel thanked Mr. Wildermuth and stated the information provided by Mr. Wildermuth was very helpful. Mr. Wildermuth stated he did a presentation on the losses and if this Board wants him to revamp it and bring it back to show at a future meeting, he would do that.

C. GROUNDWATER MODEL UPDATE (For Information Only)

Mr. Wildermuth stated he had this update read for the July Board meeting on the Groundwater Model Update. However, that meeting ran approximately 3 hours, leaving no time for this important presentation. It will be rescheduled to the October Board meeting for presentation. Mr. Wildermuth gave a brief update on the progress of the Groundwater Model and noted a more detailed report will be given next month.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Next hearing Schedule and Preparation

Counsel Slater stated this hearing is primarily to have the court make certain findings and direct the parties to proceed in accordance with the CDA Resolution 2010-04, which was adopted by this Board in 2010. Counsel Slater stated the terms of that Resolution were heavily negotiated and noted if Watermaster continues to proceed with the expansion as proposed, that we would be entitled to assess no losses because Hydraulic Control would have been achieved. The process of preparation has continued and a draft pleading is being circulated now for review. Counsel Slater stated staff and counsel have continued to meet with the stakeholders within the CDA group and the CDA staff directly, and our anticipation is this pleading will be filed on October 3, 2011. Counsel Slater asked for input on the draft pleading and noted comments will be taken up until September 28th. Counsel Slater stated there may be a conference call scheduled shortly to resolve any inconsistencies. However, inconsistencies are not expected because the Resolution itself was vetted through an open process and it was voted on unanimously in favor of it. Staff or counsel is not aware of objections. Counsel Slater stated the Regional Board has offered to give a declaration which has already been signed by them. This is very important because this closes the loop with regard to the Regional Board and court process. Counsel Slater stated the discussions regarding Recharge Master Planning have been important and Jurupa Community Services District has participated throughout the process. They are offering a declaration in the context of the hearing to place an exclamation point behind their concern that the Recharge Master Plan continue as proposed. Counsel Slater offered comment on how the hearing will be formatted. Counsel Slater stated the Agricultural Pool wanted to clarify there had been a special effort to reach out to the members who were within the potentially affected area. There is some ambiguity about the content of the earlier conversations which took place with each of these well owners and Mr. Alvarez has been working with staff, and Mr. Paxton with the CDA, to try to communicate with them. Counsel Slater stated counsel has been in contact with the lawyer for the Agricultural Pool and are working through the content of this motion; what the expectations are and to make sure that anyone within the Agricultural Pool who has a concern regarding the Emergency Response Plan, which has been adopted by the CDA, is aware of its provisions and of the existence of this hearing. Counsel Slater offered final comment regarding this item and noted there is a list of potential witnesses in addition to the declarations. However we are relying most heavily on Andy Malone from Wildermuth Environmental, as well as Desi Alvarez, Jack Safely from Western Municipal Water District and the CDA Group.

2. Restated Judgment Process

Counsel Slater stated there is now a Restated Judgment, corrected for all typographical errors and including all amendments and orders over the years, fully distributed and has

been on the Watermaster ftp site for an extended period. Counsel Slater stated it is counsel's belief there are no objections whatsoever to the articulation that has been provided. Counsel Slater stated Watermaster plans to lodge this document with the court as requested and counsel further plans to tell the court at the hearing on October 28, 2011 that Watermaster is earnestly engaged in the process of developing the annotated version. Counsel Slater stated there is now an internally generated draft that he is comfortable with and counsel is now reaching out to counsel of the various parties to assign tasks to review the document. Counsel Slater stated there will be a more active discussion with this regard over the next 60-90 days. Mr. Vanden Heuvel stated with regard to the annotated version, it is his understanding that counsel has its own internal version. Counsel Slater stated that was correct. Mr. Vanden Heuvel stated he is concerned that this may turn into Peace III and offered further comment on this matter. Counsel Slater stated what has been done is a scribes exercise which is to cross-reference. Counsel Slater encouraged the parties to crosscheck the work, and groups of lawyers will be asked to review each of the sections and to then provide a group recommendation back to Watermaster general counsel that they have signed off on the items. Counsel Slater offered further comment on this matter. Mr. Vanden Heuvel stated he wants some sort of transparency in these issues and he wants this whole matter to stay in the Board's control and offered further comment.

B. CEO/STAFF REPORT

1. Recharge Update

Mr. Alvarez stated as of a few days ago there has been 30,500 acre-feet of replenishment water recharged which includes spreading water and ASR well water. Mr. Alvarez stated MWD will be ending the program at the end of the month; the anticipated amount of water Watermaster will be receiving from that program will be 31,000 to 32,000 acre-feet. Mr. Alvarez reviewed the history on the replenishment water financing issues. Mr. Alvarez stated at the last Board meeting the Board directed Watermaster to develop an agreement which would forgo the basin losses, and staff is working with general counsel to draft that agreement and working with the parties on this matter. Mr. Alvarez stated the last item is regarding recharge in general, balancing extraction and recharge activities, and the commitments that are being made or have been made as a result of the hydraulic control of the basin. Mr. Alvarez stated Watermaster is moving forward with putting together a Steering Committee for implementation of the Recharge Master Plan (RMP). There is a report due to the court at the end of the year on the progress of the RMP.

IV. INFORMATION

1. Cash Disbursements for August 2011

No comment was made.

2. Newspaper Articles

No comment was made.

V. BOARD MEMBER COMMENTS

Chair Willis stated he would like to enlist all the party's collective support regarding the promotion for water softener regulation, which is the first time this has occurred in California. Chair Willis explained this regulation and matter in detail. Mr. Catlin stated Inland Empire Utilities Agency (IEUA) is offering rebates to help replace the older technology, and he offered further comment on this issue including information on the Exchange Cylinder Program. Chair Willis offered comment on salt being discharged into the sewer systems and recycled water usage. Mr. Elie stated IEUA's staff has spent a great deal of time on this ordinance and the key points are; 1) Staff is not going into peoples' houses and taking anything away – if it exists, people can opt to be paid to have it removed and IEUA has hired plumbers specifically to perform this task. It is only one of many technologies that are available – it is the actual salt going into our groundwater as opposed to an exchange kit canisters or other technologies that soften the water and do not use salt at all, 2) IEUA has had several public hearings. Culligan Water chose not to come and are running ads in places that speak about their exchange canisters, which is what IEUA wants done anyway, and 3) This is extremely important in

preventing salt from going into our recycled water. Mr. Elie reviewed the major talking points and offered final comments regarding this important matter. A brief discussion regarding this matter ensued.

VI. OTHER BUSINESS

No comment was made.

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. Santa Ana River Sucker Critical Habitat Litigation
2. Chino Airport Plume
3. Paragraph 31 Litigation

The confidential session concluded at 1:05 p.m.

There was no reportable action from the confidential session.

VIII. FUTURE MEETINGS

Thursday, September 15, 2011	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
Thursday, September 15, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, September 15, 2011	10:30 a.m.	Land Subsidence Committee Meeting @ CBWM
Thursday, September 22, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Tuesday, September 27, 2011	9:00 a.m.	GRCC Meeting @ CBWM
Thursday, October 13, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, October 13, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, October 13, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, October 20, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, October 27, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
* Friday, October 28, 2011	10:30 a.m.	Watermaster Court Hearing @ Chino Court

*** Note:** The court hearing has changed from September 30, 2011 to **October 28, 2011**

The Watermaster Board meeting was dismissed by Chair Willis at 2:08 p.m.

Secretary: _____

Minutes Approved: October 27, 2011