



CHINO BASIN WATERMASTER



NOTICE OF MEETINGS

Thursday, April 22, 2010

11:00 a.m. – Watermaster Board Meeting

(Lunch will be served)

AT THE CHINO BASIN WATERMASTER OFFICES

9641 San Bernardino Road
Rancho Cucamonga, CA 91730
(909) 484-3888





CHINO BASIN WATERMASTER

Thursday, April 22, 2010

11:00 p.m. – Watermaster Board Meeting

AGENDA PACKAGE



**CHINO BASIN WATERMASTER
BOARD MEETING**

11:00 a.m. – April 22, 2010

WITH

*Mr. Ken Willis, Chair, Appropriative Pool
Mr. Michael Camacho, Vice-Chair, Municipals*

At The Offices Of

**Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730**

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER

I. CONSENT CALENDAR

Note: All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

1. Minutes of the Watermaster Board meeting held February 25, 2010
2. Minutes of the Watermaster Board meeting held March 27, 2010

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of February 2010
2. Watermaster Visa Check Detail for the month of February 2010
3. Combining Schedule for the Period July 1, 2009 through February 28, 2010
4. Treasurer's Report of Financial Affairs for the Period February 1, 2010 through February 28, 2010
5. Budget vs. Actual July 2009 through February 2010

II. BUSINESS ITEMS

A. AGREEMENT TO FORM A TASK FORCE

Discussion Regarding of Agreement to Form a Task Force to Conduct the Annual Emerging Constituents Characterization Program for the Santa Ana River Watershed (Emerging Constituents Program). No Action is Required for April. Staff Will Provide Further Report and Seek Guidance from the Watermaster Board

B. AMENDMENT NO. 1 TO AGREEMENT TO FORM A TASK FORCE

Discussion Regarding Approval of Amendment No. 1 to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed (Basin Monitoring Program). No Action is Required for April. Staff Will Provide Further Report and Seek Guidance from the Watermaster Board

C. REGIONAL BOARD COMPLAINT

Discussion and Possible Action Regarding Transmittal of Administrative Civil Liability (ACL) Complaint No. R8-2010-0013

D. CONFLICT OF INTEREST

Discussion Regarding Conflict of Interest for a Watermaster Board Member(s)

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Paragraph 31 Motion Update
2. Database and Record Management

B. CEO/STAFF REPORT

1. Legislative Update
2. Recharge Update
3. Status Report 2009-2 July to December 2009
4. San Sevaine 5 Berm Improvements

IV. INFORMATION

1. Newspaper Articles

V. BOARD MEMBER COMMENTS

VI. OTHER BUSINESS

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. Paragraph 31 Motion
2. Regional Water Quality Control Board Complaint
3. Chino Airport

VIII. FUTURE MEETINGS

Wednesday, April 21, 2010	1:30 p.m.	* RMP Half Day Workshop @ Rancho Central Park
Thursday, April 22, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM
Wednesday, May 12, 2010	10:00 a.m.	Watermaster Budget Workshop @ CBWM
Thursday, May 13, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
** Thursday, May 13, 2010	1:00 p.m.	Appropriative Meeting @ CBWM
** Thursday, May 13, 2010	2:30 p.m.	Non-Agricultural Pool Meeting @ CBWM
Wednesday May 19, 2010	12:30 p.m.	* RMP Half Day Workshop @ Rancho Central Park
Thursday, May 20, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, May 20, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Thursday, May 27, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

*** Recharge Master Plan (RMP) Workshop at Rancho Central Park
11200 Base Line Road, Rancho Cucamonga**

**** Please Note: Date change for Appropriative Pool and Non-Agricultural Pool meetings**

Meeting Adjourn



CHINO BASIN WATERMASTER

I. CONSENT CALENDAR

A. MINUTES

1. Watermaster Board meeting held on February 25, 2010
2. Watermaster Board meeting held on March 25, 2010



Draft 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 Appropriative 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 abeyance 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: _____

Minutes Approved: _____

Draft *Special Verbatim* Section of 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
Robert Young
Tom Crowley
Jeff Pierson
Bob Feenstra
Pete Hall
Jennifer Novak
Tom Harder
Ron Craig
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
Fontana Union 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
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

Carollo Engineers
Western Municipal Water District
Aqua Capital Management
Auto Club Speedway
City of Chino
Golden State Water Company
Brownstein, Hyatt, Farber & Schreck

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

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER

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

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

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

Section #1 – Regular Minutes

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

Section #2 – Verbatim Minutes

Scott Slater: Item 2 relates to the Public Records Act request. I think it is Watermaster's position as the special master for the branch of the judiciary that the court and Watermaster are not expressly subject to the Public Records Act. We have our own rules and procedures whereby, Watermaster already is a transparent agency and all of the data information is already available to the court for inspection. There are processes in place wherein virtually everything that is Watermaster can be obtained through proper request. We did receive request and - although Watermaster does not subscribe to the notion that the Public Records Act applies to us, we comply anyway. So, we take every effort to make available the Watermaster documents

consistent with the PRA and consistent with our internal rules and regulations. In one instance, the request was found to be overbroad, in that it requested invoices which contain the attorney-client-counsel and a description of work product privileges or material. So, in a customary setting when a party asks for the attorneys' deliberations and the subject matter of communication with client, that is deemed to be privileged and outside the privy of the Public Records Act request. So, to begin with we don't believe that we are directly subject to the Public Records Act; there was a request for information which we have complied with inclusive of the attorney's invoices and deliberations and task descriptions and we feel that without direction from this Board, that request too far. What we did propose, although certainly not required, what we proposed is to send redacted invoices which will have the individual items reviewed and anything that contains substantive attorney thought-reflection or attorney-client communication would be redacted from the invoice. There is an expense to doing that. We think it's probably five to ten hours of attorney time to go through the relevant invoices in the time period. But staff and counsel are prepared to take that effort up if the Board so directs.

Ken Willis: Do you have any comments from Board members? Bob.

Bob Bowcock: Mr. Chairman. Um, the Non-Agricultural Pool would prefer that we not have Brownstein redact the invoices. Um, frankly that's a tune to the fox guarding the hen house. They are going to redact what they think is, you know, of particular concern to them. So, it's our belief that the Non-Agricultural Pool is paying its share of these invoices and therefore is entitled to review them. Um, and if you don't believe that, the next step would be that we would ask that an independent party conduct the redacting exercise.

Ken Willis: And how would that independent party know what to redact?

Bob Bowcock: I would hope that with our collective intellect we could pick someone that ugh fair and impartial.

Ken Willis: If we are going to take a position that our own legal counsel is not fair and impartial, I think that we are heading down a very slippery slope. If you have a problem with our legal counsel just be upfront about it but suggesting our legal counsel, which is general counsel, to this Board; trying to say that we somehow, we cannot trust our own general counsel to this Board, is...

Bob Bowcock: Then they shouldn't redact the invoices. What in there are we afraid of?

Charles Field: I'm sorry that is really not the issue.

Bob Bowcock: Okay.

Charles Field: The issue does have to do with privileged and inappropriate disclosure of privileged information. And that's the issue. And...

Bob Bowcock: Well, then take them up one at a time then. The Non-Agricultural Pool's paying their share of the bill. Are they entitled to see the bill? That's one issue. Let's stay focused on one at a time.

Bob Kuhn: I am assuming that the Non-Ag Pool voted yes on paying all those bills all through the year.

Bob Bowcock: Correct.

Bob Kuhn: Okay, you did not have an objection or a problem with that time?

Bob Bowcock: We are not privileged to seeing them. You get a warrant, we get the warrant register. We'd like to see the bill.

Bob Kuhn: And we could have gone back at that time though when it was current. Now all of a sudden it's the issue. But why the information... I'm having a hard time understanding why the information, not attorney privileged, why would that be an issue. I mean what... there's a bill. Are you specifically wanting to know what our attorney time was for?

Bob Bowcock: Yes.

Bob Kuhn: That's what you need to say.

Charles Field: These are not simple questions by the way. All of these things have a lot of overlying considerations. I think we are either going to follow the advice of our legal counsel or we aint. I recommend that we follow the advice of our legal counsel at this juncture in these proceedings. It's clear that we have people who are significantly disgruntled and asking for materials which I suspect they are not entitled to yet. And my thought would be we should follow the advice of our legal counsel and let that take its course with the proviso that at all times, we are ready to mediate and discuss any of these issues with the opposing parties.

Scott Slater: Director Field and other members of the board, my earlier thought was that, at any time that the members are willing to narrow the focus of the request or to work with us and in retaining descriptions which do not invade attorney-client and work product privileges. We are open to trying to work it out but the request we have presently pending is for the attorney invoices, again we are giving the invoices, we intend to give the invoices and the balance due. We intend to redact the task because the task is descriptive of work product and attorney-client communication.

Bob Bowcock: Okay, I have made the request on behalf of the Non-Agricultural Pool. I am now a member of the Watermaster Board, I pay those bills, this is my counsel; may I see them?

Charles Field: I think you have developed a conflict of interest to these proceedings, sir and I am intending to support the recommendation of our counsel.

Ken Willis: Very good. Do we have a motion Judge Field?

Charles Field: So moved.

Ken Willis: I have a motion. Do we have a second?

Geoffrey Vanden Heuvel: Support it.

Ken Willis: What?

Geoffrey Vanden Heuvel: I support it.

Bob Bowcock: He seconded it.

Ken Willis: Geoffrey seconded it. All those in favor please say aye.

Ken Willis: Collective voices saying aye. Opposed?

Bob Bowcock: Aye.

Ken Willis: Okay, one opposed.

*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*

Section #3 – Regular Minutes

*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
2. Chino Airport

B. ENGINEERING REPORT

1. Recharge Master Plan Progress Report

C. CEO/STAFF REPORT

1. Legislative Update
2. Recharge Update
3. GAMA Report Summary
4. Dr. David Sunding
5. Budget Update
6. Basin Plan Amendments

IV. INFORMATION

1. Newspaper Articles
 No comment was made regarding this item.

V. POOL MEMBER COMMENTS

VI. OTHER BUSINESS

No comment was made regarding this item.

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

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: _____

Minutes Approved: _____

Draft Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

March 25, 2010

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

WATERMASTER BOARD MEMBERS PRESENT

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

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

Watermaster Staff Present

Kenneth R. Manning
Ben Pak
Danielle Maurizio
Sherri Lynne Molino

Chief Executive Officer
Senior Project Engineer
Senior Engineer
Recording Secretary

Watermaster Consultants Present

Scott Slater
Michael Fife
Mark Wildermuth

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

Others Present Who Signed In

Terry Catlin
Ryan Shaw
Brian Geye
Bob Wagner
David Lounsbury
Eunice Ulloa
Marty Zvirbulis
Mark Kinsey
David DeJesus
Rick Hansen
Steve Kennedy
Karen Johnson
Josh Swift
Robert Young
Steven G. Lee
Jeff Pierson
Bob Feenstra
Pete Hall
Tom Harder
Ken Jeske
Mohamed El-Amamy

Inland Empire Utilities Agency
Inland Empire Utilities Agency
Auto Club Speedway
Chino Basin Water Conservation District
Chino Basin Water Conservation District
Chino Basin Water Conservation District
Cucamonga Valley Water District
Monte Vista Water District
Three Valleys Municipal Water District
Three Valleys Municipal Water District
Three Valleys Municipal Water District
Water Resources Planning
Fontana Water Company
Fontana Union Water Company
Reid & Hellyer for the Agricultural Pool
Ag Pool – Crops
Dairy
State of California – CIM
Jurupa Community Services District
City of Ontario
City of Ontario

Raul Garibay
Brian Geye
Dave Crosley
Ben Lewis

City of Pomona
Auto Club Speedway
City of Chino
Golden State Water Company

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

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER

I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Watermaster Board meeting held February 25, 2010

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

Moved to table February 25, 2010 minutes to the April agenda, as presented

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

Moved to add changing the format of the minutes to title and motion only, as presented

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

Moved to prepare minutes with motions only, as presented

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of January 2010

Motion by Camacho, second by Field and by unanimous vote

Moved to approve Item B1 as presented

2. Watermaster Visa Check Detail for the month of January 2010

Motion by Kuhn, second by Camacho and by unanimous vote

Moved to approve Item B2 as presented

3. Combining Schedule for the Period July 1, 2009 through January 31, 2010

Motion by Kuhn, second by Camacho and by majority vote – Bowcock voted no

Moved to approve Item B3 as presented

4. Treasurer's Report of Financial Affairs for the Period January 1, 2010 through January 31, 2010

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

Moved to approve Item B4 as presented

5. Budget vs. Actual July 2009 through January 2010

Motion by Field, second by Kuhn and by unanimous vote

Moved to approve Item B5 as presented

C. INTERVENTION INTO THE AGRICULTURAL POOL

Intervention of Rafael Treto into the Agricultural Pool

Motion by Kuhn, second by Bowcock and by unanimous vote

Moved to approve Intervention of Rafael Treto into the Agricultural Pool, as presented

II. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

- 1. Peace II SEIR
Report was given by Counsel Slater
- 2. Non-Agricultural Pool Information Requests Status
Report was given by Counsel Slater
- 3. Database and Record Management
Report was given by Counsel Slater

Motion by Vanden Heuvel, second by Whitehead and by majority vote – Kuhn voted no
Moved to approve releasing redacted invoices to the Overlying Non-Agricultural Pool representatives, as presented.

It was noted for the record that Mr. Bob Bowcock does not appreciate them being redacted.

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

Moved to approve that the Watermaster Board agrees with and supports the recommendation of legal counsel which is a recognition that we have taken internal steps to preserve the electronic communications and that is sufficient from our prospective to meeting this request and therefore most specifically, no outside consultant will be hired at this time with expertise in electronic preservation, as presented

It was noted for the record that Charles Field wanted the record to reflect that in supporting the vote, he does not agree this because it would mean we are in fact subject to the Public Records Act. He believes that we are not. He believes we are not a public agency. He believes we are an arm of the court as a special master and the Public Records Act does not apply to us and we are perfectly within our legal rights, should we choose to do so, to refuse to disclose any of these kinds of information or even to respond to these information requests without a direct order of the court.

B. ENGINEERING REPORT

- 1. 2010 Basin Plan Amendment
Report was given by Mr. Wildermuth
- 2. Recharge Master Plan Update
Report was given by Mr. Wildermuth

C. CEO/STAFF REPORT

- 1. Legislative Update
Report was given by Mr. Manning
- 2. Recharge Update
Report was given by Mr. Manning

- 3. ALCOA Monitoring Wells
Report was given by Mr. Manning
- 4. Turner Basins/Guasti Park Task Force
Report was given by Mr. Pak

III. INFORMATION

- 1. Newspaper Articles

IV. BOARD MEMBER COMMENTS

V. OTHER BUSINESS

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

VI. CONFIDENTIAL SESSION - POSSIBLE ACTION

Pursuant to Article 2.6 of the Watermaster Rules & Regulations, a Confidential Session may be held during the Watermaster committee meeting for the purpose of discussion and possible action.

- 1. Non-Agricultural Pool Paragraph 31 Motion

The confidential session was convened at 12:55 p.m.

Counsel Slater gave the following action items from the confidential session:

- 1. Watermaster Board instructed counsel to file an ex parte motion requesting a case management order regarding the Paragraph 31 Non-Agricultural Filing

A roll call vote was requested.

VII. FUTURE MEETINGS

Thursday, March 25, 2010	9:30 a.m.	Special Appropriative Pool Confidential Session 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
Thursday, April 8, 2010	9:00 a.m.	Agricultural Pool Meeting @ IEUA
* Thursday, April 8, 2010	1:00 p.m.	Appropriative Meeting @ CBWM
* Thursday, April 8, 2010	2:30 p.m.	Non-Agricultural Pool Meeting @ CBWM
Thursday, April 15, 2010	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, April 15, 2010	9:00 a.m.	Advisory Committee Meeting @ CBWM
Wednesday April 21, 2010	9:00 a.m.	RMP Half Day Workshop @ Rancho Central Park
Thursday, April 22, 2010	11:00 a.m.	Watermaster Board Meeting @ CBWM

* Notes a different day than the regularly scheduled 1st Thursday of every month meeting and will return to the normal schedule on May 6, 2010

The Watermaster Board meeting was dismissed by Chair Willis at 12:56 p.m.

Secretary: _____

Minutes Approved: _____

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CHINO BASIN WATERMASTER

I. CONSENT CALENDAR

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of February 2010
2. Watermaster Check Detail for the month of February 2010
3. Combining Schedule for the Period July 1, 2009 through February 28, 2010
4. Treasurer's Report of Financial Affairs for the Period February 1, 2010 through February 28, 2010
5. Budget vs. Actual July 2009 through February 2010





CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

KENNETH R. MANNING
Chief Executive Officer

STAFF REPORT

DATE: April 15, 2010
TO: Committee Members
SUBJECT: Cash Disbursement Report

SUMMARY

Issue – Record of cash disbursements for the month of February 2010.

Recommendation – Staff recommends the Cash Disbursements for February 2010 be received and filed as presented.

Fiscal Impact – Funds disbursed were included in the FY 2009-2010 Watermaster Budget.

BACKGROUND

A monthly cash disbursement report is provided to keep all members apprised of Watermaster expenditures.

DISCUSSION

Total cash disbursements during the month of February 2010 were \$446,915.62. The most significant expenditures during the month were Wildermuth Environmental, Inc. in the amount of \$193,511.15 and Brownstein Hyatt Farber Schreck in the amount of \$45,705.27.

Actions:

- 4-08-10 Appropriative Pool – Unanimously Approved
- 4-08-10 Non-Agricultural Pool – Pulled
- 4-08-10 Agricultural Pool – Unanimously Approved
- 4-15-10 Advisory Committee –
- 4-22-10 Watermaster Board –

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CHINO BASIN WATERMASTER
Cash Disbursement Detail Report
February 2010

Feb 10	<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Amount</u>
	Bill Pmt -Check	02/03/2010	13903	AMERICAN GROUND WATER TRUST	-1,175.00
	Bill Pmt -Check	02/03/2010	13904	APPLIED COMPUTER TECHNOLOGIES	-2,883.50
	Bill Pmt -Check	02/03/2010	13905	ARROWHEAD MOUNTAIN SPRING WATER	-11.95
	Bill Pmt -Check	02/03/2010	13906	BLACK & VEATCH CORPORATION	-3,367.50
	Bill Pmt -Check	02/03/2010	13907	BROWNSTEIN HYATT FARBER SCHRECK	-45,705.27
	Bill Pmt -Check	02/03/2010	13908	DEPARTMENT OF HEALTH SERVICES	-170.00
	Bill Pmt -Check	02/03/2010	13909	DIRECTV	-83.99
	Bill Pmt -Check	02/03/2010	13910	HSBC BUSINESS SOLUTIONS	-344.57
	Bill Pmt -Check	02/03/2010	13911	JAMES JOHNSTON	-900.00
	Bill Pmt -Check	02/03/2010	13912	KONICA MINOLTA BUSINESS SOLUTIONS	-269.20
	Bill Pmt -Check	02/03/2010	13913	MET LIFE SMALL BUSINESS CENTER	-50.00
	Bill Pmt -Check	02/03/2010	13914	MWH LABORATORIES	-1,450.00
	Bill Pmt -Check	02/03/2010	13915	OFFICE DEPOT	-162.96
	Bill Pmt -Check	02/03/2010	13916	PURCHASE POWER	-461.09
	Bill Pmt -Check	02/03/2010	13917	R&D PEST SERVICES	-85.00
	Bill Pmt -Check	02/03/2010	13918	REID & HELLYER	-7,127.79
	Bill Pmt -Check	02/03/2010	13919	RUTH CAZDEN	-800.00
	Bill Pmt -Check	02/03/2010	13920	VERIZON	-751.70
	Bill Pmt -Check	02/03/2010	13921	VISION SERVICE PLAN	-64.98
	Bill Pmt -Check	02/03/2010	13922	W.C. DISCOUNT MOBILE AUTO DETAILING	-100.00
	Bill Pmt -Check	02/03/2010	13923	MWH LABORATORIES	-11,612.00
	Bill Pmt -Check	02/03/2010	13924	WILDERMUTH ENVIRONMENTAL INC	-193,511.15
	Bill Pmt -Check	02/03/2010	13925	YUKON DISPOSAL SERVICE	-142.88
	Bill Pmt -Check	02/03/2010	13926	CITISTREET	-1,838.34
	Bill Pmt -Check	02/03/2010	13927	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-3,740.95
	Bill Pmt -Check	02/03/2010	13928	CITISTREET	-1,838.34
	Bill Pmt -Check	02/03/2010	13929	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-7,117.08
	Bill Pmt -Check	02/03/2010	13930	CITISTREET	-2,038.34
	Bill Pmt -Check	02/03/2010	13931	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-7,114.66
	Bill Pmt -Check	02/03/2010	13932	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-7,143.70
	Bill Pmt -Check	02/03/2010	13933	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-7,136.48
	Bill Pmt -Check	02/05/2010	13934	BOWCOCK, ROBERT	-125.00
	Bill Pmt -Check	02/05/2010	13935	CAMACHO, MICHAEL	-500.00
	Bill Pmt -Check	02/05/2010	13936	CHARLES MEISNER INC.	0.00
	Bill Pmt -Check	02/05/2010	13937	GUARANTEED JANITORIAL SERVICE, INC.	-865.00
	Bill Pmt -Check	02/05/2010	13938	HAUGHEY, TOM	-125.00
	Bill Pmt -Check	02/05/2010	13939	KUHN, BOB	-250.00
	Bill Pmt -Check	02/05/2010	13940	PACIFIC PARTS AND CONTROLS, INC	-95.91
	Bill Pmt -Check	02/05/2010	13941	PAYCHEX	-341.22
	Bill Pmt -Check	02/05/2010	13942	PETTY CASH	-387.21
	Bill Pmt -Check	02/05/2010	13943	POWERS ELECTRIC PRODUCTS CO.	-500.25
	Bill Pmt -Check	02/05/2010	13944	SOLINST CANADA LTD.	-117.50
	Bill Pmt -Check	02/05/2010	13945	STATE COMPENSATION INSURANCE FUND	-847.85
	Bill Pmt -Check	02/05/2010	13946	UNION 76	-248.72

CHINO BASIN WATERMASTER
Cash Disbursement Detail Report
February 2010

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Amount</u>
Bill Pmt -Check	02/05/2010	13947	VANDEN HEUVEL, GEOFFREY	-125.00
Bill Pmt -Check	02/05/2010	13948	WHITEHEAD, MICHAEL	-125.00
Bill Pmt -Check	02/05/2010	13949	WILLIS, KENNETH	-375.00
General Journal	02/06/2010	100108	PAYROLL 01/24/10-02/06/10	-6,558.11
General Journal	02/06/2010	100108	PAYROLL 01/24/10-02/06/10	-24,960.80
Bill Pmt -Check	02/09/2010	13950	PARK PLACE COMPUTER SOLUTIONS, INC.	-2,400.00
Bill Pmt -Check	02/10/2010	13951	CHARLES MEISNER INC.	-151.90
Bill Pmt -Check	02/16/2010	13952	BANC OF AMERICA LEASING	-3,215.74
Bill Pmt -Check	02/16/2010	13953	CINDY NAVAROLI	-750.00
Bill Pmt -Check	02/16/2010	13954	COMPUTER NETWORK	-449.91
Bill Pmt -Check	02/16/2010	13955	CUCAMONGA VALLEY WATER DISTRICT	-5,792.00
Bill Pmt -Check	02/16/2010	13956	FIRST AMERICAN REAL ESTATE SOLUTIONS	-125.00
Bill Pmt -Check	02/16/2010	13957	g.Neil	-57.99
Bill Pmt -Check	02/16/2010	13958	INLAND EMPIRE UTILITIES AGENCY	-10,000.00
Bill Pmt -Check	02/16/2010	13959	MCI	-1,237.85
Bill Pmt -Check	02/16/2010	13960	MWH LABORATORIES	-351.00
Bill Pmt -Check	02/16/2010	13961	SAFEGUARD DENTAL & VISION	-7.68
Bill Pmt -Check	02/16/2010	13962	SOFTCHOICE	-1,844.57
Bill Pmt -Check	02/16/2010	13963	STAULA, MARY L	-136.61
Bill Pmt -Check	02/16/2010	13964	THE STANDARD INSURANCE COMPANY	-156.56
Bill Pmt -Check	02/16/2010	13965	VERIZON WIRELESS	-525.31
Bill Pmt -Check	02/16/2010	13966	W.C. DISCOUNT MOBILE AUTO DETAILING	-100.00
Bill Pmt -Check	02/16/2010	13967	WESTERN DENTAL SERVICES, INC.	-28.06
Bill Pmt -Check	02/17/2010	13968	COMPUTER NETWORK	-402.38
General Journal	02/20/2010	100110	PAYROLL 02/07/10-02/20/10	-7,052.99
General Journal	02/20/2010	100110	PAYROLL 02/07/10-02/20/10	-26,372.78
Bill Pmt -Check	02/24/2010	13969	ACWA SERVICES CORPORATION	-230.79
Bill Pmt -Check	02/24/2010	13970	BANK OF AMERICA	-2,528.68
Bill Pmt -Check	02/24/2010	13971	CITISTREET	-1,020.00
Bill Pmt -Check	02/24/2010	13972	COMPUTER NETWORK	-271.88
Bill Pmt -Check	02/24/2010	13973	PRE-PAID LEGAL SERVICES, INC.	-103.60
Bill Pmt -Check	02/24/2010	13974	PREMIERE GLOBAL SERVICES	-832.99
Bill Pmt -Check	02/24/2010	13975	PUBLIC EMPLOYEES' RETIREMENT SYSTEM	-7,141.30
Bill Pmt -Check	02/24/2010	13976	RAUCH COMMUNICATION CONSULTANTS, LLC	-8,600.00
Bill Pmt -Check	02/24/2010	13977	UNITED PARCEL SERVICE	-12.81
Bill Pmt -Check	02/24/2010	13978	ROJO, SHERI M	-1,489.80
Bill Pmt -Check	02/24/2010	13979	ROJO, SHERI M	-13,531.02
Bill Pmt -Check	02/24/2010	13980	ROJO, SHERI M	-4,248.43
				<u><u>-446,915.62</u></u>

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03/31/10

CHINO BASIN WATERMASTER
Check Detail
February 2010

Type	Num	Date	Name	Account	Paid Amount
Bill Pmt -Ch...	13970	2/24/2010	BANK OF AMER...	1012 · Bank of America Gen'l Ckg	
Bill	4024...	1/31/2010		6909.1 · OBMP Meetings	-455.17
				6191 · Conferences	-1,127.20
				6312 · Meeting Expenses	-570.35
				6141.3 · Admin Meetings	-185.96
				6043.1 · Ricoh Lease Fee	-190.00
TOTAL					-2,528.68

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CHINO BASIN WATERMASTER
 COMBINING SCHEDULE OF REVENUE, EXPENSES AND CHANGES IN WORKING CAPITAL
 FOR THE
 PERIOD JULY 1, 2009 THROUGH FEBRUARY 28, 2010

	WATERMASTER ADMINISTRATION	OPTIMUM BASIN MANAGEMENT	POOL ADMINISTRATION & SPECIAL PROJECTS		GROUNDWATER OPERATIONS		EDUCATION FUNDS	GRAND TOTALS	BUDGET 2009-2010
			APPROPRIATIVE POOL	AG POOL	NON-AG POOL	GROUNDWATER REPLENISHMENT			
Administrative Revenues:									
Administrative Assessments			7,115,654	-	325,016			7,440,670	\$7,340,839
Interest Revenue		18,677	1,425	-	842		3	20,947	191,540
Mutual Agency Project Revenue		-	-	-	-			-	148,410
Grant Income		188	-	-	-			111,188	0
Miscellaneous Income		-	-	-	-			-	-
Total Revenues	111,000	-	7,134,520	1,425	325,858	-	3	7,572,805	7,680,789
Administrative & Project Expenditures:									
Watermaster Administration	444,190							444,190	580,238
Watermaster Board-Advisory Committee	39,903							39,903	61,901
Pool Administration		16,198	92,469	6,906				115,572	229,860
Optimum Basin Mgmt Administration		920,211						920,211	1,557,820
OBMP Project Costs		2,578,274						2,578,274	4,109,362
Debt Service		567,042						567,042	1,131,233
Education Funds Use								-	375
Mutual Agency Project Costs								-	10,000
Total Administrative/OBMP Expenses	484,093	4,065,526	16,198	92,469	6,906			4,665,191	7,680,789
Net Administrative/OBMP Expenses	(373,093)	(4,065,526)						-	-
Allocate Net Admin Expenses To Pools		3,498,484	260,670	98,902	13,520			-	-
Allocate Net OBMP Expenses To Pools		567,042	2,444,300	927,406	126,779			-	-
Allocate Debt Service to App Pool			1,118,777	(1,118,777)				-	-
Agricultural Expense Transfer*			4,406,987	-	147,204			4,665,191	7,680,789
Total Expenses	2,727,533		1,425	178,654			3	2,907,614	-
Net Administrative Income									
Other Income/(Expense)									
Replenishment Water Assessments						7,073,805		7,073,805	0
Interest Revenue						13,504		13,504	0
Water Purchases						-		-	0
Balance Adjustment						-		-	0
Other Water Purchases						(2,166,022)		(2,166,022)	0
Groundwater Replenishment						(1,021,346)		(1,021,346)	0
Net Other Income						3,899,940		3,899,940	0
Net Transfers To/(From) Reserves	6,807,554		2,727,533	1,425	178,654	3,899,940	3	6,807,554	-
Working Capital, July 1, 2009			5,942,967	470,719	255,577	4,166,457	995	10,995,966	
Working Capital, End Of Period			8,670,500	472,144	435,231	8,066,397	998	17,803,520	17,803,520
08/09 Assessable Production			84,716,450	32,142,764	4,383,990			121,253,204	
08/09 Production Percentages			69.867%	26.509%	3.624%			100.000%	

*Fund balance transfer as agreed to in the Peace Agreement.

0 Financial Statements 09-10 10 02 (Combining February 28) Sheet 1

Prepared by Todd M. Corbin, Interim Chief Financial Officer

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**CHINO BASIN WATERMASTER
TREASURER'S REPORT OF FINANCIAL AFFAIRS FOR THE PERIOD
FEBRUARY 1 THROUGH FEBRUARY 28, 2010**

DEPOSITORIES:		
Cash on Hand - Petty Cash	\$	500
Bank of America		
Governmental Checking-Demand Deposits	\$	936,343
Zero Balance Account - Payroll		
Local Agency Investment Fund - Sacramento		17,394,199
		<u>936,343</u>
TOTAL CASH IN BANKS AND ON HAND		2/28/2010
TOTAL CASH IN BANKS AND ON HAND		1/31/2010
	\$	18,331,042
		18,728,817
PERIOD INCREASE (DECREASE)	\$	(397,775)

CHANGE IN CASH POSITION DUE TO:

Decrease/(Increase) in Assets: Accounts Receivable	\$	39,700
Assessments Receivable		(90,584)
Prepaid Expenses, Deposits & Other Current Assets		-
(Decrease)/Increase in Liabilities		(18,549)
Accrued Payroll, Payroll Taxes & Other Current Liabilities		-
Transfer to/(from) Reserves		(328,342)
	\$	<u>(397,775)</u>

	Petty Cash	Gov't'l Checking Demand	Zero Balance Account Payroll	Local Agency Investment Funds	Totals
\$	500	\$ 1,334,118	\$ -	\$ 17,394,199	\$ 18,728,817
Deposits	-	49,141	-	-	49,141
Transfers	-	(64,945)	64,945	-	0
Withdrawals/Checks	-	(381,971)	(64,945)	-	(446,916)
Balances as of 2/28/2010	\$ 500	\$ 936,343	\$ -	\$ 17,394,199	\$ 18,331,042
PERIOD INCREASE OR (DECREASE)	-	(397,775)	-	-	(397,775)

SUMMARY OF FINANCIAL TRANSACTIONS:

Balances as of 1/31/2010	\$	18,728,817
Deposits		49,141
Transfers		(446,916)
Withdrawals/Checks		(397,775)
Balances as of 2/28/2010	\$	18,331,042
PERIOD INCREASE OR (DECREASE)	(397,775)	(397,775)

CHINO BASIN WATERMASTER
 TREASURER'S REPORT OF FINANCIAL AFFAIRS FOR THE PERIOD
 FEBRUARY 1 THROUGH FEBRUARY 28, 2010

INVESTMENT TRANSACTIONS

Effective Date	Transaction	Depository	Activity	Redeemed	Days to Maturity	Interest Rate(*)	Maturity Yield
No transactions to report							

TOTAL INVESTMENT TRANSACTIONS \$ -

* The earnings rate for L.A.I.F. is a daily variable rate; 0.6% was the effective yield rate at the Quarter ended December 31, 2009.

INVESTMENT STATUS
 February 28, 2010

Financial Institution	Principal Amount	Number of Days	Interest Rate	Maturity Date
Local Agency Investment Fund	\$ 17,394,199			
TOTAL INVESTMENTS	\$ 17,394,199			

Funds on hand are sufficient to meet all foreseen and planned Administrative and project expenditures during the next six months.

All investment transactions have been executed in accordance with the criteria stated in Chino Basin Watermaster's Investment Policy.

Respectfully submitted,



Todd M. Corbin
 Interim Chief Financial Officer
 Chino Basin Watermaster

CHINO BASIN WATERMASTER
Profit Loss Budget vs. Actual
July 2009 through February 2010

	YTD Actuals 7/09 - 2/10	FY 2009-10 Budget	SAmt Over (Under) Budget	% of Budget
Ordinary Income/Expense				
Income				
4010 · Local Agency Subsidies	111,000	148,410	-37,410	75%
4110 · Admin Asmnts-Approp Pool	7,115,654	7,185,411	-69,757	99%
4120 · Admin Asmnts-Non-Agri Pool	325,016	155,427	169,589	209%
4700 · Non Operating Revenues	20,947	191,540	-170,593	11%
4900 · Miscellaneous income	188			
Total Income	7,572,806	7,680,788	-107,982	99%
Gross Profit	7,572,806	7,680,788	-107,982	99%
Expense				
6010 · Salary Costs	337,305	487,838	-150,533	69%
6020 · Office Building Expense	64,425	102,500	-38,075	63%
6030 · Office Supplies & Equip.	21,090	43,500	-22,410	48%
6040 · Postage & Printing Costs	46,539	84,300	-37,761	55%
6050 · Information Services	84,923	148,500	-63,577	57%
6060 · Contract Services	103,949	98,000	5,949	106%
6080 · Insurance	15,934	16,730	-796	95%
6110 · Dues and Subscriptions	17,670	17,000	670	104%
6140 · WM Admin Expenses	2,230	3,000	-770	74%
6150 · Field Supplies	271	2,800	-2,529	10%
6170 · Travel & Transportation	18,206	37,800	-19,594	48%
6190 · Conferences & Seminars	15,611	26,500	-10,889	59%
6200 · Advisory Comm - WM Board	12,842	18,078	-5,236	71%
6300 · Watermaster Board Expenses	27,061	43,823	-16,762	62%
8300 · Appr PI-WM & Pool Admin	16,198	23,069	-6,871	70%
8400 · Agri Pool-WM & Pool Admin	19,162	25,114	-5,952	76%
8467 · Ag Legal & Technical Services	66,557	98,000	-31,443	68%
8470 · Ag Meeting Attend -Special	6,750	12,000	-5,250	56%
8471 · Ag Pool Expense	0	65,000	-65,000	0%
8500 · Non-Ag PI-WM & Pool Admin	6,906	6,677	229	103%
6500 · Education Funds Use Expens	0	375	-375	0%
9500 · Allocated G&A Expenditures	-283,963	-488,230	204,267	58%
	599,665	872,374	-272,709	69%
6900 · Optimum Basin Mgmt Plan	830,815	1,399,371	-568,556	59%
6950 · Mutual Agency Projects	0	10,000	-10,000	0%
9501 · G&A Expenses Allocated-OBMP	89,395	148,448	-59,053	60%
	920,211	1,557,819	-637,608	59%

CHINO BASIN WATERMASTER
Profit Loss Budget vs. Actual
July 2009 through February 2010

	YTD Actuals 7/09 - 2/10	FY 2009-10 Budget	\$Amt Over (Under) Budget	% of Budget
7101 · Production Monitoring	62,960	107,047	-44,087	59%
7102 · In-line Meter Installation	25,413	56,179	-30,766	45%
7103 · Grdwtr Quality Monitoring	137,910	214,362	-76,452	64%
7104 · Gdwtr Level Monitoring	225,094	366,956	-141,862	61%
7105 · Sur Wtr Qual Monitoring	3,679	43,912	-40,233	8%
7107 · Ground Level Monitoring	138,979	550,059	-411,080	25%
7108 · Hydraulic Control Monitoring	307,195	567,022	-259,827	54%
7109 · Recharge & Well Monitoring Prog	3,668	9,152	-5,485	40%
7200 · PE2- Comp Recharge Pgm	1,220,997	1,478,560	-257,563	83%
7300 · PE3&5-Water Supply/Desalte	41,816	96,003	-54,187	44%
7400 · PE4- Mgmt Plan	68,292	91,985	-23,693	74%
7500 · PE6&7-CoopEfforts/SaltMgmt	117,672	163,727	-46,055	72%
7600 · PE8&9-StorageMgmt/Conj Use	30,032	29,550	482	102%
7690 · Recharge Improvement Debt Pymt	567,042	1,131,233	-564,191	50%
7700 · Inactive Well Protection Prgm	0	5,066	-5,066	0%
9502 · G&A Expenses Allocated-Projects	194,568	339,782	-145,214	57%
	<u>3,145,316</u>	<u>5,250,595</u>	<u>-2,105,279</u>	<u>60%</u>
Total Expense	<u>4,665,191</u>	<u>7,680,788</u>	<u>-3,015,597</u>	<u>61%</u>
Net Ordinary Income	2,907,614		2,907,614	100%
Other Income/Expense				
Other Income				
4225 · Interest Income	13,504			
4210 · Approp Pool-Replenishment	4,887,364			
4220 · Non-Ag Pool-Replenishment	9,478			
4600 · Groundwater Sales	2,176,962			
Total Other Income	<u>7,087,308</u>			
Other Expense				
5010 · Groundwater Replenishment	1,021,346			
5100 · Other Water Purchases	2,166,022			
9999 · To/(From) Reserves	6,807,554			
Total Other Expense	<u>9,994,923</u>			
Net Other Income	<u>-2,907,614</u>			
Net Income	<u>0</u>		<u>0</u>	<u>0%</u>



CHINO BASIN WATERMASTER

II. BUSINESS ITEM

A. AGREEMENT TO FORM A TASK FORCE

Consider Approval of Agreement to Form a Task Force to Conduct the Annual Emerging Constituents Characterization Program for the Santa Ana River Watershed (Emerging Constituents Program)





CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

KENNETH R. MANNING
Chief Executive Officer

STAFF REPORT

DATE: April 8, 2010
TO: Committee Members
SUBJECT: Agreement to Form a Task Force to Conduct the Annual Emerging Constituents Characterization Program for the Santa Ana River Watershed (Emerging Constituents Program)

SUMMARY

Recommendation – No Action is Required for April. Staff Will Provide Further Report and Seek Guidance from the Watermaster Board

Financial Impact - Annual budget is prepared by the Task Force and its pro-rata share of such costs and fees are shared among the TASK FORCE AGENCIES. The budget proposed for the fiscal year 2010/11 is \$87,500 and the Watermaster's share is \$2,500.

BACKGROUND

A workgroup of water resource agencies in the Santa Ana Watershed was formed in April 2008 to work cooperatively with the Santa Ana Regional Board in investigating emerging constituents "unregulated chemicals" and determine which emerging constituents may be important to assure water quality protection in the Santa Ana River Watershed. The formation of this workgroup was prompted by a cooperative agreement signed in January 2008 among imported water recharging agencies and the Regional Board, to assure water quality protection resulting from imported water recharge in the Santa Ana Watershed. An evaluation of emerging constituents was proposed under a two-phase work approach. Under the first phase, the workgroup met regularly to define the purpose of an emerging constituents investigation program, to review the lessons learned from past and present emerging constituents monitoring programs, to survey the technical capability of well-qualified commercial laboratories to analyze for emerging constituents, and to identify the potential regulatory issues that may arise as a result of collecting and publishing emerging constituent data. A Phase I report was completed and forwarded to the Regional Board in December 2008. Thereafter, under Phase II, the workgroup met monthly to develop a long-term characterization program for emerging constituents and to define requirements for the submittal of an annual report based on sampling conducted for specific emerging

constituents in the Santa Ana region. The Phase II report was completed and submitted to the Regional Board for approval in December 2009.

As defined in the Phase II report, the workgroup designated the Santa Ana Watershed Project Authority (SAWPA) as the lead agency to prepare an annual emerging constituents report for submittal to the Regional Board based on sampling and laboratory analysis data submitted by the TASK FORCE AGENCIES and other cooperating agencies to SAWPA.

The purpose of this Task Force Agreement is to form a task force to oversee and conduct the necessary annual report for the Emerging Constituents Characterization program as defined in the SAWPA Phase II Emerging Constituents Work plan approved by the Regional Board on December 10, 2009. The Task Force is proposed to consist of the TASK FORCE AGENCIES to direct the study and fund it on an equitable basis to be determined by the Task Force.

Actions:

- April 8, 2010 Appropriative Pool – Discussion Only
- April 8, 2010 Non-Agricultural Pool – Discussion Only
- April 8, 2010 Agricultural Pool – Discussion Only
- April 15, 2010 Advisory Committee –
- April 22, 2010 Watermaster Board –

**AGREEMENT TO FORM A TASK FORCE
TO CONDUCT THE ANNUAL EMERGING CONSTITUENTS CHARACTERIZATION
PROGRAM FOR THE SANTA ANA RIVER WATERSHED
(EMERGING CONSTITUENTS PROGRAM)**

THIS AGREEMENT is made and entered into this ___th day of _____, 2010 by and among the following entities, which hereinafter are sometimes referred to collectively as "TASK FORCE AGENCIES" or individually as TASK FORCE AGENCY" ("AGREEMENT"). This AGREEMENT is also by and between the Santa Ana Watershed Project Authority ("SAWPA") and the TASK FORCE AGENCIES as to SAWPA's role as Task Force Administrator. The following public agencies are the "TASK FORCE AGENCIES":

- Eastern Municipal Water District
- Inland Empire Utilities Agency
- Orange County Water District
- San Bernardino Valley Muni Water District
- Western Municipal Water District
- Elsinore Valley Municipal Water District
- Irvine Ranch Water District
- Jurupa Community Services District
- Lee Lake Water District
- Metropolitan Water District of Southern California
- San Geronio Pass Water Agency
- Yucaipa Valley Water District
- City of Beaumont
- City of Corona
- City of Redlands
- City of Rialto
- City of Riverside
- Chino Basin Watermaster
- Colton/San Bernardino Regional Tertiary Treatment and Wastewater Reclamation Authority
- Western Riverside County Regional Wastewater Authority

I. RECITALS

A. **Background.** In April 2008, a workgroup of water resource agencies in the Santa Ana Watershed was convened by the Santa Ana Watershed Project Authority to work cooperatively with the Santa Ana Regional Board in investigating emerging constituents "unregulated chemicals" and determine which emerging constituents may be important to assure water quality protection in the Santa Ana River Watershed. The formation of this workgroup was prompted by a cooperative agreement signed in January 2008 among imported water recharging agencies and the Regional Board, to assure water quality protection resulting from imported water recharge in the Santa Ana Watershed. An evaluation of emerging constituents was proposed under a two-phase work approach. Under the first phase, the workgroup met regularly to define the purpose of an emerging constituents investigation program, to review the lessons learned from past and present emerging constituents monitoring programs, to survey the technical capability of well-qualified commercial laboratories to analyze for emerging constituents, and to identify the potential regulatory issues that may arise as a result of collecting and publishing emerging constituent data. A Phase I report was completed and forwarded to the Regional Board in December 2008. Thereafter, under Phase II, the workgroup met monthly to develop a long-term characterization program for emerging constituents and to define requirements for the submittal of an annual report based on sampling conducted for specific emerging constituents in the Santa Ana region. The Phase II report was completed and submitted to the Regional Board for approval in December 2009.

As defined in the Phase II report, the workgroup designated the Santa Ana Watershed Project Authority (SAWPA) as the lead agency to prepare an annual emerging constituents report for submittal to the Regional Board based on sampling and laboratory analysis data submitted by the TASK FORCE AGENCIES and other cooperating agencies to SAWPA.

B. **The Purpose of the Task Force Agreement.** The purpose of this Task Force Agreement is to form a task force to oversee and conduct the necessary annual report for the Emerging Constituents Characterization program as defined in the SAWPA Phase II Emerging Constituents Workplan approved by the Regional Board on Dec. 10, 2009. The Task Force is proposed to consist of the TASK FORCE AGENCIES to direct the study and fund it on an equitable basis to be determined by the Task Force.

II. COVENANTS

NOW, THEREFORE; in consideration of the foregoing recitals and mutual covenants contained herein, the TASK FORCE AGENCIES agree as follows:

1. Creation of a Task Force.

There is hereby created a "Task Force to Conduct an Emerging Constituents Characterization Program for the Santa Ana River Watershed" initially consisting of the TASK FORCE AGENCIES and other entities as more specifically provided for in paragraph 3 below.

2. Purpose of the Task Force.

The purpose of the Task Force is to provide oversight and supervision of the work that is described herein.

3. Membership and Organization.

a. Regular Members. Concurrent with the execution of this AGREEMENT, each of the TASK FORCE AGENCIES shall appoint one regular representative to the Task Force and one alternate representative to act in the absence of the regular representative. The representatives must be vested with the authority to act on behalf of the appointing TASK FORCE AGENCY, but only as provided for in this AGREEMENT. No actions by the TASK FORCE AGENCIES shall bind the TASK FORCE AGENCIES, except as explicitly provided for in this AGREEMENT. The identity of the appointed representatives shall be promptly communicated in writing to SAWPA. The representatives shall serve at the pleasure of the appointing TASK FORCE AGENCY and may be removed at any time, with or without cause; provided, however, that the TASK FORCE AGENCIES acknowledge and agree that the continuity of representation on the Task Force is important to the overall effectiveness of the Task Force, and the TASK FORCE AGENCIES further agree to ensure such continuity whenever possible.

b. Additional Agencies. The TASK FORCE AGENCIES acknowledge and agree that the effectiveness of the Task Force may be improved by the inclusion of other public agencies as additional TASK FORCE AGENCIES to the Task Force. Such public agencies may join the Task Force on such written terms and conditions as are acceptable to all TASK FORCE AGENCIES, including, but not limited to, agreed-upon cash contributions for past, present, and/or future work, of the Task Force. The inclusion of such public agencies as additional TASK FORCE AGENCIES to the Task Force shall be effected by a written amendment to this AGREEMENT signed by all TASK FORCE AGENCIES. Such additional TASK FORCE AGENCIES shall appoint their Task Force representatives and alternates as provided in Section 3.a. above or in said written amendment.

c. Advisory Members. The Task Force may, from time to time, seek the advice and counsel of regulatory or special interest agencies, which agencies may serve as Advisory Members to the Task Force. Such Advisory Members shall have no obligation to provide funding and have no voting privileges. The California Regional Water Quality Control Board, Santa Ana Region, is hereby appointed as an Advisory Member of the Task Force. Additional Advisory Members may be appointed by a majority vote of the Task Force representatives.

d. Committees. The Task Force may establish committees, consisting of members who shall be selected by, and serve at the pleasure of the Task Force.

e. Task Force Administrator. SAWPA, acting through its Planning Department staff, is hereby appointed as the Task Force Administrator for purposes of this Task Force Agreement. SAWPA shall have the following administrative responsibilities and shall be reimbursed for time expended on behalf of the Task Force at SAWPA's current rate for salary, overhead, burden (2009-10 rates shown in Exhibit "A"), and cost of materials, and including costs for:

- (1) Organizing and facilitating Task Force meetings;
- (2) Secretarial, clerical, and administrative services;
- (3) Management of Task Force funds and provide annual reports of Task Force assets and expenditures;
- (4) Hire Task Force-authorized consultants as permitted by the Task Force budget.

SAWPA, as the Task Force Administrator, will act as the contracting party for the benefit of the Task Force, for contracts with all Task Force consultants or contractors. SAWPA will not contract, direct, instruct, or guide such consultants or contractors on behalf of the Task Force, or use funds provided by the Task Force without approval of, or guidance from, a majority of the Task Force representatives in accordance with Sections 3.f(2), 5 and 6 of this AGREEMENT. SAWPA will provide project management for work performed by such consultants or contractors.

f. Meetings of the Task Force.

(1) Frequency and Location. The Task Force meetings shall be held at the office of SAWPA and will be scheduled based on the consensus of the majority of the Task Force at mutually agreeable times and dates. Special meetings may be called at the request of the Task Force Administrator or by a majority of the Task Force representatives. All meetings of the Task Force or its committees shall be noticed and conducted in compliance with the Ralph M. Brown Act at Government Code, Section 54950 et seq.

(2) Quorum. A majority of the representatives of the Task Force shall constitute a quorum. Actions of the Task Force shall be passed and adopted upon the affirmative vote of a majority of the Task Force. Each TASK FORCE AGENCY shall have one vote. The Task Force may adopt such additional rules and regulations as may be required for the conduct of its affairs so long as such rules and regulations do not conflict with this AGREEMENT and applicable law.

(3) Meeting Notes. SAWPA shall keep, or cause to be kept, meeting notes of the Task Force meetings including handout materials used. Copies of the meetings and handouts shall be delivered to the Task Force representatives, each TASK FORCE AGENCY, and the Advisory Members.

4. Duties of the Task Force.

a. Emerging Constituents Sampling. An emerging constituent sampling effort will be conducted by the TASK FORCE and cooperating agencies at locations and frequency under the approved sampling and analysis plan and submit copies of all sampling documents (field notes and chain of custody forms) and laboratory reports to SAWPA.

b. Data Management and Reporting. SAWPA will input the data to the Santa Ana Watershed Database Management System (SAWDMS) database and prepare an annual report summarizing results of the emerging constituents characterization program. A draft copy of the emerging constituents report will be distributed for review and comment. SAWPA will convene a TASK FORCE meeting shortly thereafter to discuss suggested revisions to the draft document. The final report will be submitted to the Regional Board, on behalf of the stakeholders, by December 31st of each year. The annual report will include a detailed description of the chemical analytes, sampling locations, sampling dates and protocols, analytical methods, QA/QC procedures and relevant results. Where appropriate, the report also shall include any recommended changes to future emerging constituent sampling efforts (including revised analytes or sampling locations). The report also will describe the toxicological relevance of the measured emerging constituent concentrations.

c. Communications. To facilitate public understanding of the new information, an Emerging Constituents Communication plan will be developed describing challenges and concerns, strategies and tactics, immediate and future tasks, messaging and talking points.

d. Termination of Projects or Studies. The TASK FORCE AGENCIES hereby agree that the Task Force shall have the discretion to terminate its projects or studies in the event a consensus of the TASK FORCE AGENCIES cannot be maintained during the course of the Task Force projects or studies. In the event a project or study is terminated, any funds previously budgeted for the project or study shall be returned to the TASK FORCE AGENCIES who furnished such funds, except as otherwise provided in Section 7 herein.

5. Budgets.

On or before February 1st of each year, SAWPA will prepare and submit a draft Task Force budget for the next fiscal year to the Task Force and TASK FORCE AGENCIES. The proposed budget shall include all anticipated costs and fees for the scope(s) of work developed by the Task Force for the next fiscal year. Costs shall include costs and fees for any consultants or contractors to be hired by SAWPA to complete the anticipated scopes of work, any equipment or materials to be purchased, and any other direct costs. SAWPA shall include as a separate item in such proposed budgets costs of SAWPA administrative services. The proposed budget shall include a detailed description of all work to be accomplished with the budget. The budgets shall also set forth the funds to be deposited with SAWPA consistent with the budgeted costs and fees for that fiscal year. Each TASK FORCE AGENCY shall approve in advance on or before March 1st of each year, its pro-rata share of the Task Force proposed budget for the next fiscal year. The TASK FORCE AGENCY shall be asked to pay its pro-rata share at the commencement of the next fiscal year. The pro-rata share of such costs and fees for each TASK FORCE AGENCY will be as described in EXHIBIT "B", attached hereto and made a part of this AGREEMENT. Said EXHIBIT "B" shall be renewed each fiscal year to reflect the final budget and the participating TASK FORCE AGENCIES of that fiscal year, and any other factor that may affect the pro-rata share of such costs and fees for each TASK FORCE AGENCY for that fiscal year. EXHIBIT "B" includes by its attachment the funding sources for Fiscal Year (July 1st to June 30th) 2010-2011, and a budget for that fiscal year shall be adopted by the Task Force and TASK FORCE AGENCIES after this AGREEMENT has been fully executed. In the event that any TASK FORCE AGENCY withdraws from the Task Force, the budget then in effect shall be adjusted in order to provide for any funding shortfall caused by such withdrawal.

6. Contracting.

Upon Task Force approval, SAWPA shall hire consultants and contractors, as necessary, to complete the scope of work that has been funded by TASK FORCE AGENCIES each fiscal year. SAWPA shall not obligate funds that have not been delivered to SAWPA by the TASK FORCE AGENCIES.

7. Duration of Agreement.

This AGREEMENT shall not terminate except by mutual agreement of a majority of the TASK FORCE AGENCIES provided that all debts and liabilities of the Task Force are satisfied. Notwithstanding the foregoing, each TASK FORCE AGENCY reserves the right to terminate its participation at any time, upon sixty (60) days' written notice to the Task Force. Task Force projects and studies already undertaken on behalf of TASK FORCE AGENCIES at the time of withdrawal by a TASK FORCE AGENCY shall be fully funded by the TASK FORCE AGENCIES, including the withdrawing TASK FORCE AGENCY, at the time projects or studies are approved by the Task Force for implementation. A withdrawing TASK FORCE AGENCY shall not be entitled to any refund for programs or studies already underway. Any refund of surplus funds due to the withdrawing TASK FORCE AGENCY shall be paid sixty (60) days after the completion of tasks, projects and studies undertaken or in progress.

8. Ownership of Documents.

All work or deliverables produced, including originals prepared by anyone in connection with, or pertaining to, the work of the Task Force, shall become the property of the TASK FORCE AGENCIES, individually and collectively. Provided, however, that any withdrawn TASK FORCE AGENCY shall only be entitled to such work or deliverables if the withdrawn TASK FORCE AGENCY has fully contributed funds for such work or deliverables.

9. Assignment.

No right, duty or obligation of whatever kind or nature created herein shall be assigned without the prior written consent of all TASK FORCE AGENCIES.

10. Effective Date.

This Task Force Agreement shall become effective when it has been executed by a majority of the TASK FORCE AGENCIES pursuant to necessary authorization by each TASK FORCE AGENCY.

11. Counterparts.

This AGREEMENT may be executed in original counterparts, which together shall constitute a single agreement.

12. Independent Contractor Status.

This AGREEMENT is not intended and shall not be construed so as to create the relationship of agent, servant, employee, partnership, joint venture or association, as between the TASK FORCE AGENCIES.

13. Waiver of Rights.

The failure by the TASK FORCE AGENCIES or SAWPA to insist upon strict performance of any of the terms, covenants or conditions of this AGREEMENT shall not be deemed a waiver of any right or remedy that TASK FORCE AGENCIES and SAWPA may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants and conditions of this AGREEMENT thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of this AGREEMENT.

14. Severability.

If any part of this AGREEMENT is held, determined or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this AGREEMENT shall be given effect to the fullest extent reasonably possible.

15. Amendment.

It is mutually understood and agreed that no addition to, alteration of, or variation of the terms of this AGREEMENT, nor any oral understanding or agreement not incorporated herein, shall be valid unless made in writing and signed and approved by all TASK FORCE AGENCIES and SAWPA.

16. Entire Agreement.

This document sets forth the entire Agreement between and among the TASK FORCE AGENCIES and SAWPA.

17. Availability of Funds.

The obligation of each TASK FORCE AGENCY is subject to the availability of funds appropriated by each TASK FORCE AGENCY for the purposes herein. Any obligation for the future payment of money beyond the current fiscal year is conditioned upon the governing body of each TASK FORCE AGENCY providing adequate appropriations in the adopted budgets for those subsequent fiscal years. This condition applies to, but is not limited to, the obligations of the TASK FORCE AGENCIES under Section 3.e (Task Force Administrator), and Section 5 (Budgets) of this AGREEMENT. Based on the financial constraints imposed by this Section 17, the TASK FORCE AGENCIES understand that SAWPA is under no duty to perform any services under this AGREEMENT until and unless the each TASK FORCE AGENCY has approved the fiscal year budget under Section 5, and has appropriated and deposited with SAWPA the necessary monies to fund the approved budget. In the event that one or more of the TASK FORCE AGENCIES fails to deposit its full share of the approved budget with SAWPA, the remaining TASK FORCE AGENCIES may, but shall not be required to, contribute additional funds in order to pay for the services contemplated by the budget. The TASK FORCE AGENCIES acknowledge that any failure by one or more of the TASK FORCE AGENCIES to appropriate and deposit monies with SAWPA to fund the budget will necessarily delay the

performance of the services by SAWPA contemplated by this AGREEMENT, and SAWPA shall not be held responsible or liable for any such delay or costs incurred from such a delay.

18. Indemnity and Insurance.

a. SAWPA shall require all consultants or contractors performing work or services for the Task Force to defend, indemnify and hold harmless SAWPA and each of the TASK FORCE AGENCIES from any and all claims, damages, lawsuits, fines, penalties, including attorneys' fees and costs, arising from or related to the works or services provided by such consultants or contractors. Such contractors or consultants also shall maintain the following insurances and keep certificates of such insurances on file with SAWPA, on behalf of the Task Force:

(1) **Workers Compensation Insurance.** A program of Workers Compensation insurance or a state approved self-insurance program shall be in an amount and form to meet all applicable requirements of the Labor Code of California, covering all persons and entities providing services on behalf of the consultant or contractor and all risks of such persons or entities under this AGREEMENT.

(2) **Comprehensive General and Automobile Liability Insurance.** Comprehensive personal injury and property damage liability coverage shall include contractual coverage and automobile liability, if applicable, and including coverage for owned, hired and non-owned vehicles. The policy shall have a combined single limit for bodily injury and property damage of at least \$1,000,000.00. SAWPA and each TASK FORCE AGENCY shall be named as additional insureds on the policy providing such coverage, and any right of subrogation shall be waived.

(3) **Professional Liability Insurance.** Professional liability insurance shall include limits of at least \$1,000,000.00 per claim or occurrence, unless such coverage is waived by the Task Force representatives.

b. Nothing in this AGREEMENT is intended to create, nor shall anything herein be construed as creating, any rights in, benefits for or obligations to, any person or entity other than SAWPA and the TASK FORCE AGENCIES.

c. Each Party to this AGREEMENT shall, pursuant to Government Code sections 895 *et seq.* and other applicable law, indemnify and hold harmless the other parties to this AGREEMENT, and their respective directors, officers, employees and agents from and against all damages, liabilities, claims, actions, demands, costs and expenses (including, but not limited to, costs of investigations, lawsuits and any other proceedings whether in law or in equity, settlement costs, attorneys' fees and costs), and penalties or violations of any kind, which arise out of, result from, or are related to the activities undertaken pursuant to this AGREEMENT. Such rights shall include but are not limited to the right of contribution pursuant to Government Code sections 895.4 and 895.6.

d. The provisions of paragraph 18 shall survive the termination of this AGREEMENT.

19. Nondiscrimination.

SAWPA shall ensure that during the term of this AGREEMENT it and any consultant retained by it shall not discriminate on the grounds of race, religion, creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any other condition related thereto, marital status, sex, or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code, in the performance of this AGREEMENT and also shall comply with the applicable provisions of the Americans with Disabilities Act.

20. Warranty of Authority.

Each of the individuals executing this AGREEMENT represent and warrant that she or he has the legal power, right, and actual authority to bind their respective TASK FORCE AGENCIES to the terms and conditions of this AGREEMENT. Each individual executing this AGEEMENT further represents and warrants that the AGREEMENT has been approved by his or her respective TASK FORCE AGENCY'S governing board or appropriate authorizing entity.

21. Dispute Resolution.

Any dispute which may arise by and between the parties to this AGREEMENT shall first be submitted to non-binding mediation, conducted by a neutral, impartial mediation service that the parties mutually agree upon in writing.

IN WITNESS WHEREOF, SAWPA and the TASK FORCE AGENCIES have executed this AGREEMENT on the date set forth below.

EASTERN MUNICIPAL WATER DISTRICT

DATE _____ BY _____
President

DATE _____ BY _____
Secretary

INLAND EMPIRE UTILITIES AGENCY

DATE _____ BY _____
President

DATE _____ BY _____
Secretary

ORANGE COUNTY WATER DISTRICT

DATE _____ BY _____
President

DATE _____ BY _____
Secretary

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

WESTERN MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

IRVINE RANCH WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

JURUPA COMMUNITY SERVICES DISTRICT

DATE _____

BY _____
President, Board of Directors

LEE LAKE WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

SAN GORGONIO PASS WATER AGENCY

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

YUCAIPA VALLEY WATER DISTRICT

DATE _____

BY _____
President, Board of Directors

CITY OF BEAUMONT

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF CORONA

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF REDLANDS

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF RIALTO

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF RIVERSIDE

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CHINO BASIN WATERMASTER

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

**COLTON/SAN BERNARDINO REGIONAL TERTIARY TREATMENT
AND WASTEWATER RECLAMATION AUTHORITY**

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

**WESTERN RIVERSIDE COUNTY REGIONAL WASTEWATER
AUTHORITY**

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

SANTA ANA WATERSHED PROJECT AUTHORITY

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

EXHIBIT A

Overhead and burden are included in all rates. Labor for SAWPA staff shall be billed at the rates in Table 1 below for FY 09-10. Rates will be adjusted annually based on SAWPA's annual budget. Materials purchased to provide administrative services that are not shown in Table 1 below shall be billed at direct cost with no additional fees or mark-ups.

Table 1 SAWPA Rate Sheet	
Item	Rate
Water Resources & Planning Manager	\$ 194.86/hour
Watershed Planner	\$ 147.06/hour
Sr. Administrative Assistant	\$ 92.08/hour
Administrative Assistant II	\$ 82.96/hour
Administrative Assistant I	\$ 60.49/hour
Senior Accounting Technician	\$ 82.96/hour
Automobile Travel	Federal mileage rate for automobile travel to meeting locations.
Out of Town travel (when air travel or overnight stay is required)	Direct cost of air travel plus direct cost of lodging and meals.

EXHIBIT B
TASK FORCE BUDGET

A. CONTRIBUTIONS

1. Study Contributions. In order to participate in the activities of the Task Force, each TASK FORCE AGENCY shall appropriate and deliver to SAWPA its agreed upon share of the funding. The TASK FORCE AGENCIES specifically recognize that each TASK FORCE AGENCY's agreed-upon share is determined by that TASK FORCE AGENCY, who is the signatory to this AGREEMENT. Funding shall be provided by the TASK FORCE AGENCIES in accordance with the attachment to this Exhibit.
2. Funds appropriated by each TASK FORCE AGENCY to the activities of the Task Force shall be expended only for the purposes expressed in this AGREEMENT. Funds shall be deposited in a restricted, interest-bearing account for the benefit of the Task Force, administered by SAWPA. Funds shall be strictly accounted to each TASK FORCE AGENCY. Upon termination of the Agreement and the activities of the Task Force, any funds not used shall be returned to the TASK FORCE AGENCIES in proportion to their contribution as provided in the Agreement.
3. The compensation to be paid to consultant(s) hired by Task Force is subject to SAWPA's receipt of funds from the TASK FORCE AGENCIES. The consultant will be directed to limit its activities to ensure that the Consultant does not expend funds or provide services for which SAWPA has not yet collected funds from the TASK FORCE AGENCIES. SAWPA shall endeavor to obtain the funds needed to fully fund the scope of work.

FY 10-11 Emerging Constituents Workgroup Budget Allocation

Projected Expenses	SAWPA TF Admin & Contract Adm	\$30,000
	SAWPA EC Annual Sampling Report	\$27,500
	Risk Sciences - Sampling Report Update	<u>\$30,000</u>
		\$87,500

Projected Revenue

	POTW & Agmt Parties Share	Totals
<i>1-18-08 Cooperative Agreement Parties</i>		
OCWD		In Kind
SGPWA	\$2,500	\$2,500
SBVMWD		\$25,000
<i>1-18-08 Cooperative Agmt Parties & Permittees</i>		
WMWD		\$25,000
RIX JPA	\$2,500	\$2,500
EMWD	\$2,500	\$2,500
EVMWD	\$2,500	\$2,500
City of Corona	\$2,500	\$2,500
City of Riverside	\$2,500	\$2,500
<i>Other Permittees</i>		
WRCRWA		
IEUA	\$2,500	\$2,500
REDLANDS	\$2,500	\$2,500
RIALTO	\$2,500	\$2,500
YVWD	\$2,500	\$2,500
JCSD	\$2,500	\$2,500
LEE LAKE WD	\$2,500	\$2,500
BEAUMONT	\$2,500	\$2,500
CBWM	\$2,500	\$2,500
IRWD	<u>\$2,500</u>	<u>\$2,500</u>
	\$37,500	\$87,500
<i>Other Agency</i>		
MWDSC		In Kind

Footnotes:

Proposed Allocation: \$25,000 SBVMWD + \$25,000 WMWD + POTW & other Cooperative Agmt Parties except WRCRWA & OCWD
 SBVMWD and WMWD's offered funding portions based on 1/12/09 ltr to SAWPA.
 MWDSC's in-kind contribution as set forth in the Phase II EC Report attached hereto as Exhibit C and incorporated by reference or as subsequently agreed upon between MWDSC and other Task Force agencies.

EXHIBIT C

Attach Final Phase II Report of the Emerging Constituents Workgroup

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CHINO BASIN WATERMASTER

II. BUSINESS ITEM

B. AMENDMENT NO. 1 TO AGREEMENT TO FORM A TASK FORCE

Consider Approval of Amendment No. 1 to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed (Basin Monitoring Program)





CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

KENNETH R. MANNING
Chief Executive Officer

STAFF REPORT

DATE: April 15, 2010
TO: Committee Members
SUBJECT: Amendment No. 1 to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed (Basin Monitoring Program)

SUMMARY

Recommendation – No Action is Required for April. Staff Will Provide Further Report and Seek Guidance from the Watermaster Board

Financial Impact - Annual budget is prepared by the Task Force and its pro-rata share of such costs and fees are shared among the TASK FORCE AGENCIES. The budget proposed for the fiscal year 2010/11 is \$433,449 and the Watermaster's share is \$25,778.

BACKGROUND

In December 1995, the Nitrogen TDS Task Force, consisting of 22 water resource agencies in the Santa Ana Watershed including Watermaster, was formed to oversee a study to evaluate the impacts of Total Inorganic Nitrogen (TIN) and Total Dissolved Solids (TDS) on water resources in the Santa Ana River Watershed. The study was completed in mid 2003. On January 22, 2004, the Santa Ana Regional Water Quality Control Board (RWQCB) incorporated the results of the Nitrogen TDS Task Force study into a Basin Plan Amendment for Nitrogen and TDS and adopted the Basin Plan Amendment. The Task Force Agencies were named in that Basin Plan Amendment as responsible for conduct in various monitoring programs and analyses to support the results defined in the Basin Plan Amendment.

Watermaster Board signed the AGREEMENT to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed (Basin Monitoring Program) in August 2004. Because of the need to perform additional work, the Amendment to the original AGREEMENT is required. The modifications of the language include:

1. The purpose of the Task Force to include performing other related cooperative studies as agreed to by the Task Force AGENCIES; and
2. Conduct Santa Ana River (SAR) Wasteload Allocations and other related studies by the TASK FORCE AGENCIES.

Actions:

- April 8, 2010 Appropriative Pool – Discussion Only
- April 8, 2010 Non-Agricultural Pool – Discussion Only
- April 8, 2010 Agricultural Pool – Discussion Only
- April 15, 2010 Advisory Committee –
- April 22, 2010 Watermaster Board –

AMENDMENT NO. 1
TO
AGREEMENT TO FORM A TASK FORCE
TO CONDUCT A
BASIN MONITORING PROGRAM FOR
NITROGEN AND TOTAL DISSOLVED SOLIDS
IN THE SANTA ANA RIVER WATERSHED
(BASIN MONITORING PROGRAM)

Pursuant to Paragraph II.15 of that certain AGREEMENT entitled, "Agreement to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed", dated August 10, 2004, the TASK FORCE AGENCIES hereby agree to make the following changes:

1. Under I. Recitals B. The Purpose of the Task Force Agreement shall be revised to read as follows:

The purpose of this AGREEMENT is to form a task force to oversee and conduct the studies for the Basin Monitoring Program as described in the RWQCB's Basin Plan Amendment **and perform other related cooperative studies as agreed to by the TASK FORCE AGENCIES.** The Task Force is proposed to consist of the TASK FORCE AGENCIES to direct the study and fund it on an equitable basis to be determined by the TASK FORCE AGENCIES.

2. The TASK FORCE AGENCIES hereby amend Paragraph II. 4 (Duties of the Task Force) of the Task Force Agreement to include the following tasks to be funded by the TASK FORCE AGENCIES and authorize the Task Force Administrator to conduct such tasks.

d. Conduct Santa Ana River (SAR) Wasteload Allocations and other related studies

Hire a consultant to perform updates to the SAR Wasteload Allocation Report, work with the RWQCB staff and TASK FORCE AGENCIES on appropriate model runs to be used for new RWQCB Basin Plan Amendments for the SAR Wasteload Allocation and provide appropriate input for new Basin Plan Amendment language as needed. Additional studies may also be conducted to support the purposes of the TASK FORCE AGENCIES as directed by a consensus of the TASK FORCE AGENCIES.

Except as otherwise expressly amended herein, all of the terms, conditions, and provisions of the AGREEMENT shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the dates set forth below.

CITY OF BEAUMONT

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CHINO BASIN WATERMASTER

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

**COLTON/SAN BERNARDINO REGIONAL
TERTIARY TREATMENT AND WASTEWATER
RECLAMATION AUTHORITY**

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF CORONA

DATE _____

BY _____

DWP General Manager

DATE _____

BY _____

City Clerk

EASTERN MUNICIPAL WATER DISTRICT

DATE _____

BY _____

President

DATE _____

BY _____

Secretary

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

DATE _____

BY _____

President

DATE _____

BY _____

Secretary

INLAND EMPIRE UTILITIES AGENCY

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

IRVINE RANCH WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

JURUPA COMMUNITY SERVICES DISTRICT

DATE _____

BY _____
President, Board of Directors

ORANGE COUNTY WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF RIALTO

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF RIVERSIDE

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF REDLANDS

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

**SAN TIMOTEO WATERSHED MANAGEMENT
AUTHORITY**

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

SANTA ANA WATERSHED PROJECT AUTHORITY

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

**WESTERN RIVERSIDE COUNTY REGIONAL
WASTEWATER AUTHORITY**

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

YUCAIPA VALLEY WATER DISTRICT

DATE _____

BY _____
President, Board of Directors



CHINO BASIN WATERMASTER

II. BUSINESS ITEM

C. REGIONAL BOARD COMPLAINT Transmittal of Administrative Civil Liability (ACL) Compliant No. R8-2010-0013





CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

KENNETH R. MANNING
Chief Executive Officer

STAFF REPORT

DATE: April 22, 2010
TO: Watermaster Board Members
SUBJECT: Administrative Civil Liability Complaint No. R8-2010-0013

SUMMARY

Issue - Discussion of Regional Water Quality Control Board Administrative Civil Liability Complaint No. R8-2010-0013. For discussion only, no action is requested.

Recommendation – Provide Staff with Direction and Authorize Scott Slater to Continue His Work as Watermaster's Appointed Mediator Between the Expansion Group and the CDA

Financial Impact - Fiscal impact: potential fine of \$227,700 to be shared between Watermaster and Inland Empire Utilities Agency.

Background

On April 1, 2010 the Regional Water Quality Control Board (RWQCB), issued Administrative Civil Liability (ACL) Complaint No. R8-2010-0013 which proposes an administrative civil liability be imposed on Watermaster and IEUA in an amount of \$227,700. The Complaint is silent as to how this liability is to be distributed between Watermaster and IEUA.

A hearing on the complaint has been scheduled for June 10, 2010. On April 19, 2010, Watermaster, IEUA, Western and the CDA met with Mr. Thibeault in order to discuss the Complaint and the June hearing.

The basis for the Complaint is an alleged violation of RWQCB Order No. R8-2007-0039. This Order is the permit that allows Watermaster and IEUA to recharge recycled water into the Chino Basin. Watermaster and IEUA are co-permittees under this Order. In order to be in compliance with the permit, Watermaster and IEUA must ensure that the commitments under the Basin Plan Amendments are fulfilled. All such commitments have been fulfilled except for the requirement to attain Hydraulic Control.

The plan for the attainment of Hydraulic Control is to construct the Chino Creek Wellfield as part of the current expansion of the desalters. Beginning in 2006, Watermaster and IEUA provided schedules to the RWQCB indicated the expected progress of the construction of the Chino Creek Wellfield and thus the progress toward attainment of Hydraulic Control. In 2007, the RWQCB approved a schedule according to

which Hydraulic Control would be attained by November 2012. This schedule included numerous internal milestones, one of which was to complete CEQA by September 1, 2009.

Subsequently Watermaster and IEUA have reported to the RWQCB that delays have prevented compliance with the internal milestones previously proposed. In 2008 Watermaster and IEUA met with the RWQCB and indicated that the date for attainment of Hydraulic Control would be approximately November 2013. In Watermaster and IEUA's quarterly report to the RWQCB on October 30, 2009 it was indicated that a more realistic current date for the attainment of Hydraulic Control would be December 2014.

In response, the RWQCB has issued the Complaint. While the originally scheduled deadline to attain Hydraulic Control (November 2012) has not yet been violated, the failure to meet the internal deadlines has led the RWQCB to believe that the original deadline will not be met. Thus, liability in the Complaint is based on a failure to achieve the September 1, 2009 CEQA deadline and the amount of the liability is calculated based on this date.

This item is presented for discussion and possible action regarding direction to staff and legal counsel regarding response. Staff will provide a report at the Board meeting of the results of the April 19, 2010 meeting with the RWQCB.

Actions:

- Date: Appropriative Pool –
- Date: Non-Agricultural Pool –
- Date: Agricultural Pool –
- Date: Advisory Committee –
- Date: Watermaster Board –

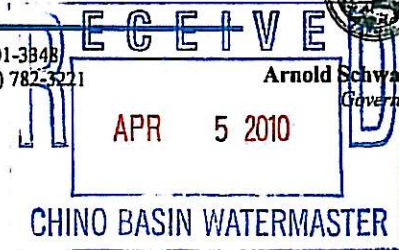


California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3848
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana



April 1, 2010

Kenneth R. Manning, CEO
Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Richard W. Atwater, CEO/General Manager
Inland Empire Utilities Agency
6075 Kimball Avenue
Chino, CA 91708

TRANSMITTAL OF ADMINISTRATIVE CIVIL LIABILITY (ACL) COMPLAINT NO. R8-2010-0013

Dear Messrs. Manning and Atwater:

Enclosed is a certified copy of Administrative Civil Liability Complaint No. R8-2010-0013 (hereinafter the "Complaint"). The Complaint alleges that the Chino Basin Watermaster and Inland Empire Utilities Agency have violated Regional Water Quality Control Board Order No. R8-2007-0039 (Order) for which a penalty may be imposed under Section 13350 of the California Water Code. Specifically, the Complaint alleges that the Chino Basin Watermaster and Inland Empire Utilities Agency violated requirements in the Order that require you to implement and plan to maintain hydraulic control to eliminate or control to *de minimus* levels the discharge of groundwater from the Chino Basin to the Santa Ana River. The Complaint proposes that administrative civil liability in the amount of two hundred twenty-seven thousand, seven hundred dollars (\$227,700) be imposed as authorized under Water Code Section 13350(e)(2). Also enclosed are a Waiver Form and a Hearing Procedure that sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the Complaint process is available at:
http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml

The Fact Sheet describes the Complaint process and explains what the Chino Basin Watermaster and Inland Empire Utilities Agency can expect and your obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Hope Smythe at (951) 782-4493.

Please read each document carefully. This Complaint may result in the issuance of an order by the Regional Board requiring that you pay a penalty.

California Environmental Protection Agency



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If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on June 10, 2010. The staff report regarding this Complaint and the meeting agenda will be mailed to you not less than 10 days prior to the hearing.

Pursuant to California Water Code Section 13323, the Chino Basin Watermaster and Inland Empire Utilities Agency have the option to waive their right to a hearing. Should the Chino Basin Watermaster and Inland Empire Utilities Agency waive their right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If the Chino Basin Watermaster and Inland Empire Utilities Agency choose to waive their right to a hearing, please sign and submit the enclosed Waiver Form with a check for two hundred twenty-seven thousand, seven hundred dollars (\$227,700) made payable to the State Water Resources Control Board-WDPF. The Waiver Form and check should be sent to the Regional Board office in the enclosed pre-printed envelope.

If the Chino Basin Watermaster and Inland Empire Utilities Agency do not wish to waive their right to a hearing, requesting a pre-hearing meeting, as set forth in the Hearing Procedure, is recommended. Should you wish to schedule a pre-hearing meeting, please contact me (951-782-3284) prior to April 20, 2010.

If you have any questions about the Complaint or the enclosed documents, please contact Hope Smythe at (951) 782-4493 (hsmythe@waterboards.ca.gov), Joanne Schneider at (951) 782-3287 (jschneider@waterboards.ca.gov) or Kurt Berchtold at (951)782-3286 (kberchtold@waterboards.ca.gov). All legal questions should be directed to Reed Sato at (916) 341-5889 (rsato@waterboards.ca.gov), Director, Office of Enforcement.

Sincerely,



Gerard J. Thibeault
Executive Officer
Regional Board Prosecution Team

Enclosures: Complaint No. R8-2010-0013, Waiver Form and Preprinted Envelope

cc with a copy of the complaint (by electronic mail only):

Regional Board Members
Gary Stewart (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice (Regional Board Advisory Team Attorney)
State Water Resources Control Board, Office of Enforcement – Reed Sato
(Regional Board Prosecution Team Attorney)

California Environmental Protection Agency



Recycled Paper

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the Matter of:

Chino Basin Watermaster)
9641 San Bernardino Road)
Rancho Cucamonga, CA 91730)
Attn: Kenneth R. Manning)
)
)
Inland Empire Utilities Agency)
6075 Kimball Avenue)
Chino, CA 91708)
Attn: Richard W. Atwater)

Complaint No. R8-2010-0013
for
Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The Chino Basin Watermaster and Inland Empire Utilities Agency (hereinafter "Watermaster" and "IEUA") are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter "Regional Board"), may impose administrative civil liability under California Water Code (hereinafter "CWC") §13350.
2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint, unless pursuant to CWC Section 13323, the Watermaster and Inland Empire Utilities Agency waives their right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Board's regular meeting on June 10, 2010, at the Irvine Ranch Water District, 15600 Sand Canyon Ave, Irvine, CA 92618. The Watermaster and IEUA, or their designated representatives, will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. An agenda for the meeting and the staff report relating to this item will be mailed to you not less than 10 days prior to the hearing date.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

THE COMPLAINT IS BASED ON THE FOLLOWING FACTORS:

1. The Chino Basin Watermaster (Watermaster) was established under a judgment from the San Bernardino County Superior Court. The Judgment adjudicated the Chino Groundwater Basin and required the Basin to be operated in accordance with the provisions of the Judgment and under the direction of a court-appointed watermaster. The Watermaster consists of various public and private entities that pump water from Chino Basin, including municipalities in the Chino Basin, water districts, agricultural operators, commercial enterprises and other private interests. The Judgment required the Watermaster to develop an Optimum Basin Management Program (OBMP) and to implement the OBMP. Components of the OBMP include extensive groundwater monitoring, development of recharge facilities, construction of storage and recovery projects, management of salt loads, and development of new water sources such as reclaimed water and storm water recharge.
2. In 2004, the Regional Board approved amendments to the Water Quality Control Plan for the Santa Ana Basin (Basin Plan) that established so-called "maximum benefit" objectives for TDS and nitrogen for the Chino North groundwater Management Zone (also referred to in this Complaint as the Chino Basin). The "maximum benefit" TDS and nitrogen objectives are less stringent than the "antidegradation" objectives for the Chino North Management Zone, which were also established by the 2004 Basin Plan amendments. The "maximum benefit" objectives accommodate water recycling and recharge projects, while ensuring protection of the beneficial uses of Chino Basin and downstream water bodies. Pursuant to the Basin Plan, the application of the "maximum benefit" objectives, rather than the "antidegradation objectives", is contingent on the implementation by the Watermaster and IEUA of their maximum benefit commitments, which are a specific program of projects and requirements (shown in Table 5-8a of the Basin Plan) that are also an integral part of the OBMP.
3. One of the maximum benefit requirements specified in the Basin Plan is that hydraulic control, *i.e.*, eliminating groundwater discharge from the Chino Basin to the Santa Ana River, or controlling the discharge to *de minimis* levels, be maintained.
4. On April 15, 2005, the Regional Board issued Water Recycling Requirements (Order No. R8-2005-0033) to the Watermaster and IEUA for Phase I of the Chino Basin Recycled Water Groundwater Recharge Project. Pursuant to Section H. PROVISIONS 4.h. of Order No. R8-2005-0033, the Watermaster and IEUA are required to implement their maximum benefit commitments, including maintaining hydraulic control.
5. On June 29, 2007, the Regional Board amended R8-2005-0033 and issued revised Water Recycling Requirements (Order No. R8-2007-0039) to the Watermaster and IEUA for the Chino Basin Recycled Water Groundwater Recharge Program, Phase I and Phase II Projects. Order No. R8-2007-0039 identifies the Watermaster and IEUA as "dischargers" or "users". Order No. R8-2007-0039 continues to require that the

Watermaster and IEUA implement their maximum benefit commitments. With respect to the maintenance of hydraulic control, Section G. PROVISIONS, 4.g(2) requires, *"The users shall submit a plan and schedule to correct loss of hydraulic control within 60 days of a determination by the Regional Board that hydraulic control is not being maintained. The schedule shall assure that hydraulic control is achieved as soon as possible but no later than 180 days after loss of hydraulic control is identified. The users shall implement the plan and schedule upon approval by the Regional Board."*

6. The Watermaster and IEUA have violated the provisions of Order No. R8-2007-0039 by failing to maintain hydraulic control and also failing, repeatedly, to comply with the correction schedule submitted in response to the requirements of Provision G.4g(2) of the Order.
 - a) On April 15, 2006, the Watermaster and IEUA submitted the Chino Basin Maximum Benefit Monitoring Program 2005 Annual Report. Analysis of groundwater level data in this report indicated that hydraulic control was not occurring in the area bounded by the Chino Hills and Desalter I Well No.5 in the Chino North Management Zone. This finding was confirmed in three reports prepared in 2006 by Wildermuth Environmental, Inc. at the direction of the Watermaster.
 - b) The Watermaster conducted detailed modeling investigations to develop a new desalter well field (hereafter the Chino Creek Well Field) and a groundwater management program that, when implemented, are expected to correct the loss of hydraulic control.
 - c) By letter to the Watermaster and IEUA dated February 14, 2007, the Executive Officer acknowledged the finding of the loss of hydraulic control and requested by March 16, 2007, a time schedule that identifies design and construction milestones for the Chino Creek Well Field, leading to correction of the loss of hydraulic control. The February 14, 2007 letter makes clear the Executive Officer's expectation, based on detailed discussions with Watermaster and IEUA on November 30, 2006, that the corrective action schedule to be proposed by the Watermaster/IEUA would not exceed three years.
 - d) By letter dated February 28, 2007, the Watermaster and IEUA requested that the submittal of the time schedule for design and construction milestones for the Chino Creek Well Field be delayed to March 31, 2007. On March 12, 2007, the Executive Officer granted the extension.
 - e) On March 30, 2007, the Watermaster and IEUA provided two versions of the requested Chino Creek Well Field design and construction milestone schedule: Schedule A – Pragmatic Schedule for the planning, design and construction of the Chino Creek Well Field; and, Schedule B – Accelerated schedule for planning, design and construction of the Chino Creek Well Field. Schedule A and B

identified completion dates of November 2012 and February 2012, respectively. The February 2012 schedule was recognized as feasible only if requisite analyses pursuant to the California Environmental Quality Act and other planning and design processes were completed expeditiously.

- f) On May 29, 2007, in a meeting with Watermaster and IEUA representatives, the Executive Officer approved the time schedule for achieving hydraulic control. The approved time schedule included interim milestone dates and specified that hydraulic control would be achieved by November 2012. One of the interim milestone dates required the EIR for the project to be finalized by September 1, 2009. The EIR has not yet been finalized.
- g) In response to a January 15, 2008 request by the Executive Officer for a status report on progress to achieve hydraulic control, on February 11, 2008, the Watermaster and IEUA submitted a letter acknowledging that hydraulic control had not yet been achieved and that some groundwater outflow from Chino North management zone appeared to be occurring near Chino Creek. The Watermaster/IEUA letter indicated that the magnitude of this discharge was estimated to be approximately 4,000 to 5,000 acre-ft/yr. The letter proposed a *revised* schedule for the planning, design and construction of the Chino Creek Well Field, with completion by early 2013.
- h) By letter dated May 23, 2008, the Executive Officer requested that the Watermaster and IEUA provide quarterly reports, including schedules, on progress to implement hydraulic control measures until hydraulic control is achieved.
- i) On July 15, 2008, the Watermaster and IEUA submitted a letter report constituting the July 15th progress report. Per this July 15th report, start-up of the Chino Creek Well Field was projected to occur in November 2013. The July 15th report also stated that: "...since February 2008 there has been no significant progress on the project."
- j) At the September 5, 2008, Regional Board meeting, the Executive Officer reported on the status of the Watermaster and IEUA's progress in meeting the maximum benefit commitments and requirements, including correction of the loss of hydraulic control. The Executive Officer reported that the Watermaster and IEUA had submitted a schedule on March 30, 2007 that specified a 4-year schedule (November 2012) to construct the Chino Creek Well field and thereby correct the loss of hydraulic control. The Executive Officer also reported that on February 11, 2008, the Watermaster and IEUA had submitted a revised schedule for the completion of the Chino Creek Well Field by May 2013. The Executive Officer reported that the Watermaster and IEUA had also reported on July 15, 2008 that there had been no significant progress on the Well Field project since February 2008. Testimony provided by the Watermaster indicated that the delay

was due, in significant part to financial and membership issues within the Chino Desalter Authority that were expected to be resolved shortly.

- j) Subsequently, at the November 21, 2008 Regional Board meeting, the Executive Officer reported that Watermaster representatives had indicated that the outstanding issue related to CDA had been resolved and that the plan and schedule provided by the Watermaster and IEUA would assure that hydraulic control would be achieved by November 2013. Given the reported resolution of issues, the Executive Officer did not propose enforcement by the Regional Board, given the assurances by the Watermaster.
 - k) On October 30, 2009, the Watermaster and IEUA submitted the Chino Desalter Phase 3 Quarterly report – July 1, 2009 to September 30, 2009. The quarterly report included a revised schedule for construction of the Chino Creek Wellfield: construction was to begin on August 7, 2008 and be complete by December 2, 2014. This is more than two years beyond the November 2012 schedule identified in the March 30, 2007 Watermaster submittal.
 - l) The Watermaster and IEUA have failed to maintain hydraulic control and to take timely action to correct the loss of hydraulic control, as required by Order No. R8-2007-0039.
 - m) By electronic message dated December 9, 2009, the Executive Officer advised the Watermaster and IEUA of the intent to proceed with enforcement action for the continuing failure by Watermaster and IEUA to meet the maximum benefit requirements specified in Order No. R8-2007-0039, specifically, those requirements pertaining to hydraulic control.
7. Pursuant to CWC § 13350. (a) Any person who... (2) in violation of any **waste discharge requirement**, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state, shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).
8. Pursuant to § 13350 (e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both. The Executive Officer proposes to impose civil liability per CWC §13350 (e)(1), on a daily basis.
9. CWC §13350(e)(1) states that the civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs. The maximum liability for the violation cited above on a daily basis is \$1,060,000 (212 days x \$5,000 per day). This is based on 212 days of violation of the September 1, 2009 deadline for finalizing the EIR.

10. CWC §13327 specifies factors that the Regional Board shall consider in establishing the amount of civil liability. Consideration of these factors is addressed in the following table.

Factor	Comment
<p>A. Nature, Circumstances, Extent and Gravity of Violation</p>	<p>The Watermaster and IEUA have failed to comply with Order No. R8-2007-0039 wherein the Watermaster and IEUA are required to implement the maximum benefit program commitment, to maintain hydraulic control to eliminate or control to <i>de minimus</i> levels the discharge of groundwater from the Chino Basin to the Santa Ana River. As a result, hydraulic control has not been achieved at least since 2006 and continues not to be achieved. The continuing failure to correct the loss of hydraulic control will adversely affect the quality and beneficial uses of affected receiving waters. The requirement to achieve hydraulic control was based on extensive analyses, conducted as part of 2004 Basin Plan amendments, to incorporate maximum benefit objectives and to identify measures necessary to assure that other receiving waters are not adversely affected as the result of implementation of those objectives.</p> <p>The Watermaster and IEUA acknowledged in 2006 that hydraulic control was not being met and have failed to address the problem in a timely manner, as required by Order No. R8-2007-0039.</p> <p>The estimated 4,000 - 5,000 acre-feet per year of groundwater in the Chino Basin that is not contained in Chino Basin, rises into the Santa Ana River and becomes part of the surface flows recharged in the Orange County Groundwater Management Zone. The Santa Ana River serves as the primary source of water supply through groundwater recharge for Orange County. The 2006 ambient TDS and nitrate-nitrogen water quality determinations for the Chino Basin were 340 mg/L and 9.7 mg/L, respectively – representing a 40 mg/L increase in TDS and a 2.3 mg/L increase in nitrate-nitrogen from the 1997 ambient water quality determination. Absent hydraulic control, discharges from Chino Basin could adversely affect the quality of groundwater discharge to the River and the quality of flows recharged in the Orange County Groundwater Management Zone, and thus the quality of Orange County groundwater used for domestic and municipal supply.</p>

Factor	Comment
<p>B. Culpability</p>	<p>The Watermaster and IEUA are responsible for implementing the maximum benefit requirements specified in Order No. R8-2007-0039, including the requirement to maintain hydraulic control and to identify and implement an acceptable plan to correct the loss of hydraulic control, should it occur.</p> <p>Both IEUA and the Watermaster have detailed knowledge and understanding of the basis for the requirement to maintain hydraulic control and to correct the failure to maintain control. Both IEUA and Watermaster are aware that the application of "maximum benefit" objectives is contingent on their implementation of maximum benefit commitments specified in the Basin Plan and in Order No. R8-2007-0039. To support implementation of the OBMP and thereby optimize the use of water resources, including recycled water, in the Chino Basin, the Watermaster and IEUA sought approval and implementation of the "maximum benefit" objectives and committed to implement a specific program of programs and projects, including actions necessary to maintain hydraulic control.</p>
<p>C. Economic Benefit or Savings</p>	<p>Regional Board staff has insufficient information to assess the economic benefit of the failure to implement the Chino Creek Well Field. The delay in constructing the facilities needed for maintaining hydraulic control has resulted in cost savings to the member agencies of the Chino Basin Desalter Authority, the Watermaster and IEUA. The exact cost benefit from this delay could not be ascertained. Regional Board staff believes that the assessment proposed in this complaint is adequate to recover these savings.</p>
<p>D. Prior History of Violations</p>	<p>Neither Watermaster nor IEUA has violated Order No. R8-2007-0039 in the past.</p>
<p>E. Staff Costs</p>	<p>Regional Board staff spent approximately 300 hours investigating the failure of The Watermaster to maintain hydraulic control and preparing this enforcement action (@\$70 per hour, the total cost for staff time is \$21,000.</p>

Factor	Comment
<p>F. Ability to pay</p>	<p>According to the following document, "The Watermaster, Thirty-Second Annual Report, Fiscal Year 2008-2009", including an Independent Auditors' Report, the Watermaster's net assets at the end of the 2008-2009 fiscal year totaled \$10,995,966, a 77% increase in net assets over the previous fiscal year. This takes into account operating expenses, non-operating expenses and all revenues. Therefore, it appears that the Watermaster has the ability to pay the proposed administrative civil liability.</p> <p>According to IEUA's "Budget in Brief, FY 2009/10", for the 2009-10 fiscal year, IEUA's adopted budget includes an ending fund balance of \$111,000,000. This takes into account operating expenses, capital program costs, net income and prior fiscal year roll-over funding. Therefore, it appears that IEUA has the ability to pay the proposed administrative civil liability.</p>

11. After consideration of the above factors, the Executive Officer proposes that civil liability be imposed administratively on Chino Basin Watermaster in the amount of \$227,700 for the violation cited above.

This penalty assessment is based on a consideration of the potential for harm from the failure to maintain hydraulic control and the repeated failure to implement control actions in a timely manner. The Executive Officer determined that an assessment of \$5,000 per day is appropriate. The total assessment based on a total of 212 days of violation is \$1,060,000. This amount is then adjusted based on the potential harm from the violation, adjustment to the per day assessment amount, and the Watermaster's and IEUA's culpability, cooperation to address the violation and prior history of violations. Based on these findings, the Executive Officer finds that an assessment of \$206,700 is appropriate.


CWC §13327 also requires consideration of economic benefit or savings, if any, resulting from the violation, and other matters as justice may require. These costs are added to the final liability to determine the assessed civil liability for the alleged violation(s). No economic benefit has been assessed for the Watermaster's failure to implement the hydraulic control program. The costs of investigation and enforcement are considered as one of the "other factors as justice may require". The staff costs (\$21,000) are added to the amount in the above paragraph, for a total assessment of \$227,700.

WAIVER OF HEARING

Please see the attached Wavier Form for details regarding the waiver procedures.

If you have any questions, please contact Hope Smythe at (951) 782-4493, Joanne Schneider at (951) 782-3287 or Kurt Berchtold at (951)782-3286.

4-1-10
Date



Gerard J. Thibeault
Executive Officer
Regional Board Prosecution Team

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California Regional Water Quality Control Board Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

HEARING PROCEDURE FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2010-0013

ISSUED TO
Chino Basin Watermaster
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

and

Inland Empire Utilities Agency
6075 Kimball Avenue
Chino, CA 91708

San Bernardino County

SCHEDULED FOR JUNE 10, 2010

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

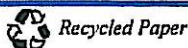
The Executive Officer has issued an Administrative Civil Liability Complaint (hereinafter "Complaint") pursuant to California Water Code Section 13323 against the Chino Basin Watermaster and Inland Empire Utilities Agency (hereinafter "Dischargers") alleging that the Dischargers have violated Water Code Section 13350 by violating Santa Ana Regional Water Quality Control Board Order No. R8-2007-0039 (Order) wherein the Dischargers are required, pursuant to maximum benefit program commitments in the Basin Plan, to maintain hydraulic control to eliminate or control to *de minimus* levels the discharge of groundwater from the Chino Basin to the Santa Ana River. The Complaint proposes that administrative civil liability in the amount of two hundred twenty-seven thousand, seven hundred dollars (\$227,700) be imposed as authorized by Water Code Section 13350(e)(2). A hearing is currently scheduled to be held before the Regional Board during its June 10, 2010 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on June 10, 2010 will commence at 9:00 a.m. or as soon thereafter as practicable, or as announced in the Regional Board meeting agenda. The meeting will be held at the Irvine Ranch Water District, Multi-Purpose Room, 15600 Sand Canyon Ave., Irvine, California. An agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

California Environmental Protection Agency



The agenda will include the final hearing date and location, and the estimated start time for the meeting. Since the start time for this item is uncertain, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. This hearing procedure has been pre-approved by the Regional Board's Advisory Team in model format. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY APRIL 13, 2010 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

1. Regional Board Prosecution Team
2. Chino Basin Watermaster and Inland Empire Utilities Agency, also referred to as the Dischargers

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on April 13, 2010 by Advisory Team Attorney David Rice, Davidrice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of

designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on April 20, 2010. The parties will be notified by 5 p.m. on April 27, 2010 in writing whether the request has been granted or denied.

Primary Contacts

Advisory Team: **David Rice (email: Davidrice@waterboards.ca.gov)**
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Prosecution Team: **Reed Sato (email: rsato@waterboards.ca.gov)**
Phone: 916-341-5889
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Dischargers: **Kenneth R. Manning, CEO**
Email: KManning@CBWM.org
Phone: 909-484-3888
9641 San Bernardino Road
Rancho Cucamonga, CA 91730

Richard Atwater, CEO/General Manager
Email: atwater@ieua.org
Phone: 909-993-1740
6075 Kimball Avenue
Chino, CA 91708

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team). Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Gary Stewart, Chief of Compliance, Regulations and Permits.

Members of the Prosecution Team are: Reed Sato, Office of Enforcement, State Water Resources Control Board; Gerard Thibeault, Executive Officer, Santa Ana Regional Water Quality Control Board, Kurt Berchtold, Assistant Executive Officer, Santa Ana Regional Water Quality Control Board; Joanne Schneider, Division Chief, Santa Ana Regional Water Quality Control Board; Hope Smythe, Inland Waters Planning Unit Chief, Santa Ana Regional Water Quality Control Board; and Xinyu (Cindy) Li, Inland Waters Planning Unit, Santa Ana Regional Water Quality Control Board.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or oral communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if oral). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than May 27, 2010. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on April 29, 2010.

The remaining designated parties shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on April 29, 2010.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on May 27, 2010. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by email, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than April 29, 2010. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by May 27, 2010 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must

be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on May 27, 2010. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Lucas (email: alucas@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at:

http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.

Although the web page is updated regularly, to assure access to the latest information, you may contact Reed Sato (rsato@waterboards.ca.gov).

Questions


Questions concerning this proceeding may be addressed to the Advisory Team Attorney David Rice (Davidrice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the discharger waives that requirement.)

April 1, 2010	Prosecution Team issues ACL Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team
April 10, 2010	Deadline for publication of Public Notice
April 13, 2010	Deadline for requests for designated party status.
April 13, 2010	Deadline for objections, if any, to proposed Hearing Procedure.
April 20, 2010	Deadline for oppositions to requests for designated party status.
April 20, 2010	Discharger's deadline for waiving right to hearing.

- April 29, 2010 Advisory Team issues decision on requests for designated party status, if any.
- April 29, 2010 Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements."
- April 29, 2010 Remaining Designated Parties' Deadline for all information required under "Submission of Evidence and Policy Statements."
- April 29, 2010 Interested Persons' deadline for written non-evidentiary policy statements.
- May 27, 2010 All Designated Parties' deadline for rebuttal information, evidentiary objections, and requests for additional time at the hearing, if any.
- June 10, 2010 Public Hearing.



Gerard J. Thibeault
Executive Officer
Regional Board Prosecution Team

4-1-10

Date

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CHINO BASIN WATERMASTER

II. BUSINESS ITEM

D. CONFLICTS AND CLOSED SESSION ATTENDANCE

Discussion Regarding Rules and Regulations
Concerning Conflicts and Closed Session
Attendance





CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, Ca 91730
Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

KENNETH R. MANNING
Chief Executive Officer

STAFF REPORT

DATE: April 22, 2010
TO: Watermaster Board Members
SUBJECT: Conflicts and Closed Session Attendance

SUMMARY

Issue - Discussion regarding Rules and Regulations concerning conflicts and closed session attendance

Recommendation – This item is for discussion only and possible reference to the Pool committees for discussion and recommendation.

Financial Impact - None apparent at this time

Background

On March 16, 2010, the Non-Agricultural Pool filed a Paragraph 31 Motion requesting the Court to review Watermaster's compliance with the Purchase and Sale Agreement. During the period leading up to the filing of this Motion, and subsequent to its filing, the Board met in closed session to discuss strategy and provide direction to legal counsel. The Non-Agricultural Pool, through its Board representative, attended these closed sessions.

The Watermaster Rules and Regulations recognize that Watermaster is an interest-based organization and narrowly define conflicts of interest that demand recusal from consideration of an issue to exist only where the individual stands to gain a direct pecuniary benefit from the decision under consideration. (See Rules and Regulations section 2.10.) Unless such a conflict of interest exists, the rules specifically say that the representative of the Basin interest will vote on matters that come before the Advisory Committee or Board.

In the opinion of legal counsel, this provision of the Rules and Regulations allowed the Non-Agricultural Pool to attend the closed sessions relating to the Paragraph 31 Motion. This rule however, is arguably at odds with the common law under the Brown Act which requires that a Board member recuse himself from participation in discussions concerning litigation matters if that member is directly involved in the litigation.

During the course of discussions concerning the Motion, Board members have expressed dissatisfaction with the Watermaster Rule as it currently exists, due to the inhibitory effect that the presence of a litigant

has on the ability to have candid discussions about the matter in question. At the last closed session, staff was therefore directed to place this issue on the agenda for the next Board meeting so that the Board could discuss in open session whether the issue should be addressed, and potentially refer the issue to the Pools for further discussion.

This item is presented for discussion only and for possible reference to the Pool Committees for further discussion and possible recommendation.

Actions:

- Date: Appropriative Pool –
- Date: Non-Agricultural Pool –
- Date: Agricultural Pool –
- Date: Advisory Committee –
- Date: Watermaster Board –



CHINO BASIN WATERMASTER

III. REPORTS / UPDATES

B. CEO/STAFF REPORT

4. Status Report 2009-2 / July to December 2009



Optimum Basin Management Program

Staff Status Report 2009-2: July to December 2009



CHINO BASIN WATERMASTER

Optimum Basin Management Program

Highlighted Activities

- The Chino Basin Facilities Improvement Project (CBFIP) Phase II, a joint effort of Watermaster, the Chino Basin Water Conservation District (CBWCD), Inland Empire Utilities Agency (IEUA), and the San Bernardino County Flood Control District (SBCFCD) to increase the annual recharge of storm, imported, and recycled water and to reduce long-term maintenance costs, has shown considerable progress in its construction and is expected to be completed by March 2010. The project is co-funded by Watermaster and IEUA with matching funds from the California Department of Water Resources (DWR). The new MWD turnout CB-20 and improvements to CB-14 have been completed and successfully tested.

- Preparation of the Recharge Master Plan (RMP) update is underway. Wagner & Bonsignore is working on stormwater recharge improvement opportunities and Black & Veatch is completing the section on supplemental water, while Wildermuth Environmental Inc. (WEI) is coordinating the balance of the report and is overseeing the final product. During this reporting period, a series of workshops (8/27 & 12/17) and technical group meetings (9/9, 10/22, 11/2, & 12/8) were held at the Watermaster office to update the Watermaster parties on the RMP progress. The final updated Recharge Master Plan is due to the Court by July 1, 2010.



New and Improved MWD Turnout at CB-14

- The modeling work for the Peace II Subsequent Environmental Impact Report (SEIR) by WEI was completed in November 2009. The draft report will be circulated in February 2010 prior to public review.

- The Water Auction has been postponed until spring of 2010 due to the concerns raised by potential bidders about accessing the water.

Important Court hearings and orders

- JULY 7—STATUS UPDATE ON PROGRAM ELEMENT NOS. 7, 8, AND 9
- AUGUST 11—ORDER ON WATERMASTER MOTION FOR APPROVAL OF TEMPLATE STORAGE AND RECOVERY AGREEMENT
- SEPTEMBER 8—NOTICE OF MOTION FOR APPROVAL OF CASE MANAGEMENT ORDER
- SEPTEMBER 17—ORDER FOR APPROVAL OF TEMPLATE STORAGE AND RECOVERY AGREEMENT
- DECEMBER 4—NOTICE AND ORDER TO ATTEND STATUS CONFERENCE
- DECEMBER 11—COURT HEARING—STATUS CONFERENCE

Program Element 1: Develop and Implement a Comprehensive Monitoring Program

Groundwater Level Monitoring

Watermaster initiated a comprehensive monitoring program as part of the implementation of the OBMP. The current groundwater level monitoring program is comprised of about 700 wells. At about 170 of these wells, water levels are measured by the appropriators. Watermaster collects these water level data each quarter. At about 330 of these wells, water levels are measured by cooperating agencies such as the California Department of Toxic Substance Control (DTSC), the County of San Bernardino, and private consulting firms who collect samples at various plume monitoring sites across the basin. Watermaster collects these water level data four times per year. The remaining 200 wells are private wells or dedicated monitoring wells that are mainly located in the southern portion of the Chino Basin. Watermaster staff measures water levels at these wells using manual methods once

Optimum Basin Management Program

IN NOVEMBER 2009, THE CALIFORNIA STATE LEGISLATURE PASSED AN HISTORIC PACKAGE OF BILLS AND A BOND PROPOSAL THAT ARE DESIGNED TO BOTH ENSURE A RELIABLE AND CLEAN WATER SUPPLY FOR FUTURE GENERATIONS, BUT ALSO RESTORE THE ECOLOGICALLY SENSITIVE AREAS OF THE SACRAMENTO-SAN JOAQUIN DELTA.

Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)

per month or with pressure transducers that record water levels once every 15 minutes. The wells in the monitoring program within the southern portion of the basin were preferentially selected to assist in Watermaster's monitoring programs for hydraulic control, land subsidence, and desalter impacts to private well owners. The remaining wells are monitored in support of the triennial re-computation of ambient water quality in the Chino-North management zone. The water level data are checked by Watermaster staff and uploaded to a centralized relational database.

Groundwater Quality Monitoring

Watermaster initiated a comprehensive monitoring program as part of the implementation of the OBMP. The groundwater quality monitoring program consists of the following four components:

1. An Annual Key Well Water Quality Monitoring Program designed to target privately owned agricultural wells in the southern portion of Chino Basin that are otherwise not included in an established sampling program.
2. Annual sampling at nine HCMP multi-port monitoring wells strategically placed between the Chino Basin Desalter well fields and the Santa Ana River. Results of the quarterly sampling are used to analyze the effect of the desalter pumping over time by comparing water quality of the native groundwater and the Santa Ana River.
3. Monthly sampling at four near-river wells to characterize the Santa Ana River's influence to nearby groundwater. These shallow monitoring wells along the Santa Ana River consist of two former United States Geologic Survey (USGS) National Water Quality Assessment Program (NAWQA) wells (Archibald 1 and Archibald 2), and two wells (well 9 and well 11) owned by the Santa Ana River Water Company (SARWC).
4. A cooperative basin-wide data collection effort known as the Chino Basin Data Collection (CBDC) program which relies on municipal producers and other government agencies to supply groundwater quality data on a cooperative basis. These sources include the appropriators, Department of Toxic Substance Control (DTSC), Regional Water Quality Control Board (RWQCB), US Geological Survey (USGS), the Counties, and other cooperators. All water quality data are routinely collected, QA/QC'd, and loaded into Watermaster's relational database.

Groundwater-Production Monitoring

All active wells (except for minimum user wells) are now metered. Watermaster reads the agricultural production data from the meters on a quarterly basis and enters these data into Watermaster's relational database.

Surface Water Monitoring

Water Quality and Quantity in Recharge Basins. Watermaster measures the quantity and quality of storm and supplemental water entering the recharge basins. Pressure transducers or staff gauges are used to measure water levels during recharge operations. In addition to these quantity measurements, imported water quality data for State Water Project water are obtained from the Metropolitan Water District of Southern California (MWDSC) and recycled water quality data for the RP-1 and RP-4 treatment plant effluents are obtained from IEUA. Watermaster monitors the storm water quality in the eight major channels (San Antonio, West Cucamonga, Cucamonga, Deer Creek, Day Creek, San Sevaine, West Fontana, and DeClez), usually after each major storm event. Combining the measured flow data with the respective water qualities enables the calculation of the blended water quality in each recharge basin, the "new yield" to the Chino Basin, and the adequate dilution of recycled water.



New MWD Turnout (CB-20)

Optimum Basin Management Program

Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)

Surface Water Monitoring in the Santa Ana River (SAR). Watermaster measures the discharge of the River and selected water quality parameters to determine those reaches of the SAR that are gaining flow from the Chino Basin and/or, conversely, those reaches that are losing flow into the Chino Basin. These bi-weekly flow and water quality measurements are combined with discharge data from permanent USGS and Orange County Water District (OCWD) stream gauges and discharge data from publicly owned treatment works (POTWs). These data are used along with groundwater modeling to assess the extent of hydraulic control.

HCMP Annual Report

In January 2004, the RWQCB amended the Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin to incorporate an updated total dissolved solids (TDS) and nitrogen (N) management plan. The Basin Plan Amendment includes both "antidegradation" and "maximum benefit" objectives for TDS and nitrate-nitrogen for the Chino and Cucamonga groundwater management zones. The application of the "maximum benefit" objectives relies on Watermaster and IEUA's implementation of a specific program of projects and requirements, which are an integral part of the OBMP. On April 15, 2005, the RWQCB adopted resolution R8-2005-0064; thus approving the Surface Water Monitoring Program and Groundwater Monitoring Program in support of maximum benefit commitments in the Chino and Cucamonga Basins.

Pursuant to the Basin Plan and the Watermaster/IEUA permit to recharge recycled water, Watermaster and IEUA have conducted groundwater and surface water monitoring programs since 2004. During this reporting period, Watermaster measured 377 manual water levels at private wells throughout the Chino Basin, conducted two quarterly downloads at the 125 wells containing pressure transducers, collected 90 groundwater quality samples, and 221 surface water quality samples. Quarterly Surface Water Monitoring Program reports that summarize data collection efforts were submitted to the RWQCB in July and October of 2009. The Chino Basin Maximum Benefit Monitoring Program 2009 Annual Report will be submitted to the RWQCB in April 2010.

Chino Basin Groundwater Recharge Program

IEUA, Watermaster, CBWCD, and the SBCFCD jointly sponsor the Chino Basin Groundwater Recharge Program. This is a comprehensive water supply program to enhance water supply reliability and improve the groundwater quality in local drinking water wells throughout the Chino Basin by increasing the recharge of storm water, imported water, and recycled water. The recharge program is regulated under RWQCB Order No. R8-2007-0039 and Monitoring and Reporting Program No. R8-2007-0039.

Recharge Activities. On-going recycled water recharge occurred in the Brooks, 8th Street, Hickory, Turner, RP-3, and Ely Basins this reporting period.

Monitoring Activities. Watermaster and IEUA collect weekly water quality samples from basins that are actively recharging recycled water and from lysimeters installed within those basins. During this reporting period, approximately 271 basin and lysimeter samples were collected and two recycled water samples were collected for alternative monitoring plans that include the application of a correction factor for Soil-Aquifer Treatment determined from each basin's start-up period. Monitoring wells located down-gradient of the recharge basins were sampled quarterly at a minimum, however,

"AS THE WATER PICTURE FOR THIS YEAR BECOMES CLEARER, WE CAN INCREASE OUR DELIVERIES TO FARMS AND COMMUNITIES THROUGHOUT THE STATE," SAID DWR DIRECTOR MARK COWIN. "BUT THE AFTERMATH OF THREE YEARS OF DROUGHT AND REGULATORY RESTRICTIONS ON DELTA PUMPING TO PROTECT FISH SPECIES WILL KEEP THIS YEAR'S ALLOCATION FAR BELOW NORMAL. THIS UNDERSCORES, ONCE AGAIN, THE NEED TO IMPLEMENT LONG-TERM SOLUTIONS TO IMPROVE WATER SUPPLY RELIABILITY."



Optimum Basin Management Program

Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)



New Telemetry system being tested

some monitoring wells were sampled more frequently during the reporting period for a total of 108 samples.

Construction Activities. Lysimeters and monitoring wells associated with the 7th and 8th Street Basins were installed in the first half of Fiscal Year (FY) 2007/08. There have been no further construction activities since that time.

Reporting. Watermaster and IEUA completed the following required reports concerning the recharge program during the reporting period:

- 2Q09 Quarterly Report, submitted to the RWQCB – August 2009
- 3Q09 Quarterly Report, submitted to the RWQCB – November 2009

Land Surface Monitoring

The MZ-1 Subsidence Management Plan (MZ-1 Plan) was approved by Watermaster in October 2007, and was approved by the Court in November 2007 which ordered its implementation (see Program Element 4: Develop and Implement a Comprehensive Groundwater Management Plan for Management Zone 1). The MZ-1 Plan calls for a number of activities with the goal of minimizing or completely abating the future occurrence of land subsidence and ground fissuring in Chino Basin. Some of these activities include:

- Continuing the scope and frequency of monitoring within the so-called Managed Area (southwest MZ-1) that was conducted during the period when the MZ-1 Plan was being developed.
- Expanding the monitoring of the aquifer system and land subsidence into other areas of MZ-1 and Chino Basin where the data indicate concern for future subsidence and ground fissuring.
- Monitoring of horizontal strain across the historical fissure zone.
- Further evaluating the potential contribution of pumping in the central and northern portions of MZ-1 on groundwater conditions in the central and southern portions of MZ-1.
- Conducting additional testing and monitoring to refine the Guidance Criteria.
- Developing alternative pumping plans for the MZ-1 producers that are impacted by the MZ-1 Plan.
- Constructing and testing a lower-cost extensometer facility at Ayala Park.
- Evaluating and comparing ground-level surveying and Interferometric Synthetic Aperture Radar (InSAR), and recommending future monitoring protocols for both techniques.
- Conducting an ASR (aquifer injection and recovery) feasibility study at a production well owned by the City of Chino Hills within the Managed Area.
- Providing for recovery of groundwater levels.



Installation of CB-14 Turnout

With regard to monitoring and testing, Watermaster began or continued the implementation of some of these activities called for in the MZ-1 Plan. During this reporting period these activities included:

Optimum Basin Management Program

Program Element 1: Develop and Implement a Comprehensive Monitoring Program (Continued)

- The continuation of detailed water-level monitoring at wells within the Managed Area and at wells in central MZ-1. Replacement of water-level-recording transducers at wells where these transducers have failed after about seven years of reliable service.
- Continuation of monitoring and maintenance at the Ayala Park Extensometer Facility. This includes monitoring at the newly installed lower-cost pair of cable extensometers within two piezometers at Ayala Park to test this technology for possible application in other parts of the Basin.
- Began to develop a new testing and monitoring program within and east of the Managed Area with the goals of (1) refining the Guidance Criteria, (2) confirming the existence of the Riley Barrier, (3) testing the feasibility of injection in the Managed Area, (4) better understanding the potential for subsidence and fissuring east of the Managed Area, and (5) evaluating the effect of pumping and drawdown on the fissure zone.
- Collection of InSAR data from radar satellites during all six months of the reporting period, which will be analyzed for land surface displacement in early 2010.

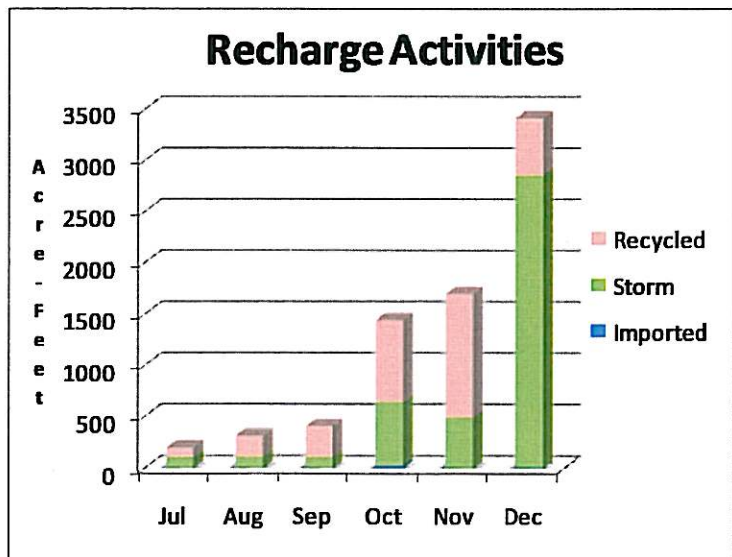
Program Element 2: Develop and Implement a Comprehensive Recharge Program

Construction on the Chino Basin Facilities Improvement Project (CBFIP) Phase I was completed by December 31, 2005 at a cost of \$38M; 50-percent from a State Water Resources Control Board (SWRCB) Proposition 13 Grant, and 25-percent each from Watermaster and IEUA. A CBFIP Phase II list of projects was developed by Watermaster and IEUA, including monitoring wells, lysimeters, recycled water connections, Supervisory Control And Data Acquisition (SCADA) system expansions, three MWDSC turnouts, and berm heightening and hardening. At a cost of approximately \$10.5M, these Phase II facilities were financed through a 50-percent Grant from DWR and 25-percent each from Watermaster and IEUA.

In FY 2007/08, the CBFIP Phase I facilities were able to recharge approximately 13,000 Acre-Feet (AF) of storm and recycled water. With the completion of the Phase II facilities by March 2010, the total recharge capacity will be about 96,000 AF. By the start of FY 2009/10, most of the basins will be able to operate on a 12 months-per-year basis with combinations of storm, imported, and recycled water, with occasional downtime for silt and organic growth removal. Operations and basin planning are coordinated through the Groundwater Recharge Coordinating Committee (GRCC), which met quarterly during this reporting period.

Because of the drought, Delta water quality, water supply, and environmental issues, MWDSC has been unable to provide replenishment water to southern California since May 1, 2007. This greatly restricts Watermaster's ability to recharge recycled water, since the California Department of Public Health (DPH) requires that approximately four parts of diluent water (imported or storm water) be blended with each part of recycled water. Watermaster and IEUA are working closely with DPH and the Regional Water Quality Control Board to reduce the blend ratio. For this reporting period, about 7,474 AF of storm and recycled water were recharged. This includes 26 AF of imported water that was used for testing the new MWD turnouts.

Preparation of the Recharge Master Plan update is underway in satisfaction of Condition Subsequent No. 5. On March 28, 2008, the initial meeting of the Recharge Master Plan group occurred. A detailed outline of the scope and content of the Recharge Master Plan update was filed with the Court for approval on June 30, 2008. A progress report was provided to the Court on January 1, 2009. Since that time the Court has relieved Watermaster of the semi-annual project reporting. During the reporting period two technical



Optimum Basin Management Program

Program Element 2: Develop and Implement a Comprehensive Recharge Program (Continued)

memoranda have been prepared and workshops were conducted for project stakeholders. The project website has been maintained as a receptacle for project references, memoranda, meeting notes and presentations. The final updated Recharge Master Plan is due to the Court by July 1, 2010.

Program Element 3: Develop and Implement Water Supply Plan for the Impaired Areas of the Basin; and Program Element 5: Develop and Implement Regional Supplemental Water Program

Construction of the Chino I Desalter Expansion and the Chino II Desalter facilities was completed in February 2006. As currently configured, the Chino I Desalter provides 2.6 million gallons per day (MGD) of treated (air stripping for VOC removal) water from Wells Nos. 1-4, 4.9 MGD of treated (ion exchange for nitrate removal) water from Well Nos. 5-15, and 6.7 MGD of treated (reverse osmosis for nitrate and TDS removal) water from Wells Nos. 5-15 for a total of 14.2 MGD (15,900 AFY). The Chino II Desalter provides 4.0 MGD of ion exchange treated water and 6.0 MGD of reverse osmosis treated water from eight additional wells for a total of 10.0 MGD (11,200 AFY).

During the reporting period, negotiations continued between the Chino Desalter Authority (CDA) and Western Municipal Water District (WMWD) to allow WMWD to join the CDA and to expand the Chino II Desalter by 10.5 MGD (11,800 AFY). The CDA approved WMWD membership in November 2008. Planning and engineering investigations related to the expansion are ongoing. Watermaster is working with the CDA parties to produce a realistic schedule to be approved by the RWQCB. Raw water will be drawn from existing CDA II wells, and possible additional new wells, if needed. In addition, a new Chino Creek Desalter Well Field, required for the hydraulic control commitment associated with Maximum Benefit, will provide additional raw water to the Chino I Desalter, enabling some existing wells to direct production to the expanded Chino II Desalter facility, if approved by the Chino Basin Desalter Authority.

Program Element 4: Develop and Implement a Comprehensive Groundwater Management Plan for Management Zone 1 and Management Zone 3

MZ-1 Management Plan

Because of the historical occurrence of pumping-induced land subsidence and ground fissuring in southwestern Chino Basin (southern MZ-1), the OBMP called for the development and implementation of an interim management plan for MZ-1 that would:

- Minimize subsidence and fissuring in the short-term,
- Collect information necessary to understand the extent, rate, and mechanisms of subsidence and fissuring, and
- Formulate a management plan to reduce to tolerable levels or abate future subsidence and fissuring.

From 2001-2005, Watermaster developed, coordinated, and conducted an Interim Monitoring Program (IMP) under the guidance of the MZ-1 Technical Committee, which is composed of representatives from all major MZ-1 producers and their technical consultants. The IMP was an aquifer-system and land subsidence investigation focused in the southwestern region of MZ-1 that would support the development of a long-term management plan to minimize and abate subsidence and fissuring (MZ-1 Plan). The IMP involved the construction of highly-sophisticated monitoring facilities, such as deep borehole extensometers and piezometers, the monitoring of land surface displacements through traditional ground-level surveys and remote-sensing techniques, the detailed monitoring of the aquifer system with water-level-recording transducers installed at an array of production and monitoring wells, and the purposeful stressing of the aquifer system through multiple controlled pumping tests.

The investigation methods, results, and conclusions are described in detail in the MZ-1 Summary Report, dated February 2006. The investigation provided enough information for Watermaster to develop Guidance Criteria for the MZ-1 producers in the investigation area that, if followed, would minimize the potential for subsidence and

Optimum Basin Management Program

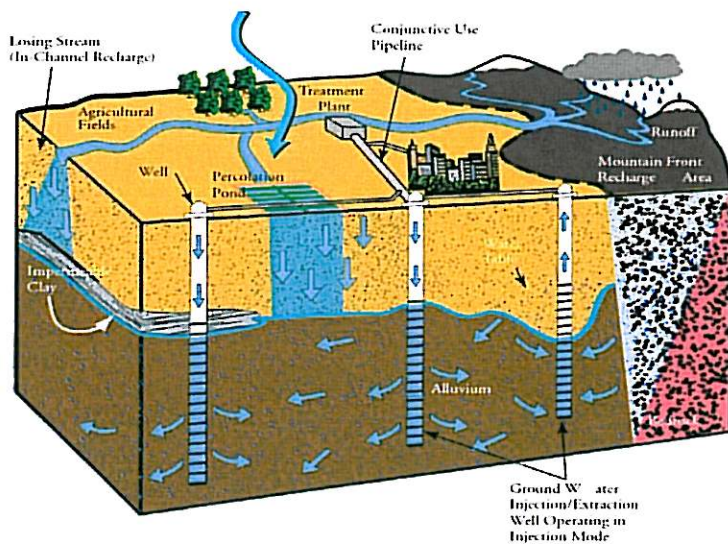
Program Element 4: Develop and Implement a Comprehensive Groundwater Management Plan for Management Zone 1 and Management Zone 3 (Continued)

fissuring during the completion of the MZ-1 Plan. The Guidance Criteria included a listing of Managed Wells and their owners subject to the criteria, a map of the so-called Managed Area, and an initial threshold water level (Guidance Level) of 245 feet below the top of the PA-7 well casing. The MZ-1 Summary Report and the Guidance Criteria were adopted by the Watermaster Board in May 2006. The Guidance Criteria formed the basis for the MZ-1 Plan, which was approved by Watermaster in October 2007. The Court approved the MZ-1 Plan in November 2007 and ordered its implementation.

During this reporting period, Watermaster continued implementation of the MZ-1 Plan. Drawdown at the PA-7 piezometer did not fall below the Guidance Level during the reporting period, and very little, if any permanent compaction was recorded at the Ayala Park Extensometer. Data collection during 2009—including InSAR, ground-level survey, extensometer, and groundwater-level data—was completed and is being compiled and analyzed for inclusion in the 2008-09 MZ-1 Report which will be published during the next reporting period.

MZ-3 Monitoring Program

Watermaster performed a groundwater investigation to characterize groundwater levels and quality in Management Zone 3 (MZ-3) of the Chino Basin. The OBMP Implementation Plan states that MZ-3 is hydrologically out of balance and that new storm water and supplemental water recharge will be required to keep MZ-3 in balance. The blend of storm water, imported water, and recycled water used in the future to hydrologically balance MZ-3 must be of a quality to protect beneficial uses and comply with the proposed Title 22 regulations for planned recharge projects that use recycled water. Watermaster drilled, installed, developed, and sampled two nested, multiple-depth piezometers in the projected path of the Kaiser Steel plume, which is an immediate threat to potable supply wells owned by the City of Ontario and Jurupa Community Services District. The monitoring program also incorporated four quarters of sample collection and analyses from 22 wells in MZ-3 to assess other groundwater quality issues, including total dissolved solids (TDS), nitrate, and perchlorate. Watermaster completed and submitted the final report to the California Department of Water Resources (DWR) in December 2008, in partial fulfillment of the AB303 Grant requirements. These wells have been added to the Groundwater Quality Monitoring Program. MZ3-1, the deepest well in the eastern nest of wells, has relatively elevated TDS and sulfate, which may be an indication that the Kaiser plume has reached this well. MZ3-1 is about 2,300 feet up gradient of JCSD 19.



Managed Groundwater Basin

Optimum Basin Management Program

Program Element 6: Develop and Implement Cooperative Programs with the Regional Water Quality Control Board, Santa Ana Region (Regional Board) and Other Agencies to Improve Basin Management; and Program Element 7: Develop and Implement a Salt Management Program

Ontario International Airport

Watermaster reviewed EcoGeo monthly reports and received electronic data deliverables that were uploaded into Watermaster's database. Watermaster began coordination with the OIA parties for rounds of split sampling of the recently installed OIA monitoring wells.

Regional Water Quality Control Board minutes from 1953 state that there was a release of chromic acid waste in 1948 from GE's Flat Iron facility into the City of Ontario sanitary sewer system. Watermaster obtained historical data (1948 to 1961) for hexavalent and total chromium in groundwater south of OIA and plotted maps over several periods from 1948 to present. These maps show the formation and dissipation of a hexavalent chromium plume south of OIA. Watermaster created maps and tables showing the location of the four OIA monitoring wells, OIAS plume contours, the braided Cucamonga Creek in 1938, and TCE concentrations in wells. It was concluded that the hexavalent chromium plume dissipated to background concentrations by mid 1960.

Chino Airport

Watermaster coordinated with the County of San Bernardino, Department of Airports (County) and exchanged pertinent well, water level, and water quality for wells that the County has installed and for wells that Watermaster samples; and researched property owner information for the commercial property at the corner of Kimball and San Antonio Ave; this property is being pursued as a potential alternate monitoring well location for one of the new Chino Airport monitoring wells. This alternate location would still meet the County's needs, while saving Watermaster parties the cost of a new monitoring well for the HCMP. Watermaster conducted meetings with the property owner, John Hancock Life Insurance, and the City of Chino.

Watermaster queried its database for 1,2,3-trichloropropane (TCP) in wells within the Chino Airport Plume and in other wells in the vicinity of the Chino Airport Plume; and created Box and Whisker Plot and performed statistical analyses on the TCP data. This analysis was used to convince the County that there is a plume of TCP emanating from the Chino Airport that will need to be remediated and that the TCP is not from non-point source fumigation for nematodes with a pesticide.

Watermaster ran the MT3D model exported results, including water level, flow velocity, and TCE plumes for the years: 2011, 2013, 2015, 2020, 2025, and 2030 for the currently proposed Chino Creek Well Field alignment in the preliminary design report (PDR) to estimate plume capture.

California Institute for Men

Watermaster queried TCE and PCE data from the monitoring wells at the California Institute for Men (CIM) and created time histories of the monitoring well data by aquifer zones: undifferentiated A, A1, A2, B, C, and D. This work was performed in support of the Watermaster review and response to the Request for No Further Action submitted to the Regional Board by the State of California. Watermaster and the State began work on a memorandum of understanding that would allow Watermaster to continue to monitor a subset of wells on CIM.

Perchlorate in MZ-3

A regional study, the Cross-Fault Isotope Study, whose objective is to determine the source of the wide-spread, low-level perchlorate in groundwater in MZ-3, was proposed and Watermaster was asked to participate. The project is to be funded by the Environmental Security Technology Certification Program (ESTCP), which is a Department of Defense (DoD) program that promotes innovative, cost-effective environmental technologies through demonstration and validation at DoD sites. Watermaster met with the parties involved in the study, contacted the University of Illinois/Chicago – who would perform the isotope work, and helped draft the study work plan. Watermaster's role in this study is to provide feedback and review, but not to fully participate or contribute funding to the study.

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CAN SOLVE THE
PROBLEMS OF
WATER WILL BE
WORTHY OF
TWO NOBEL
PRIZES—ONE
FOR PEACE AND
ONE FOR
SCIENCE."
JOHN F.
KENNEDY

"WHEN THE
WELL'S RUN DRY,
WE KNOW THE
WORTH OF
WATER."
BENJAMIN
FRANKLIN

Optimum Basin Management Program

Program Element 8: Develop and Implement a Groundwater Storage Management Program; and

Program Element 9: Develop and Implement a Storage and Recovery Program

The existing Watermaster/IEUA/MWDSC Dry-Year Yield (DYY) program continued during the reporting period. All DYY program construction projects have been completed and are currently being used for a DYY take, or removal from storage.

Due to the current drought conditions throughout the state of California, Metropolitan has not provided water for the DYY account since April 2007. As of April 30, 2008, about 86,000 AF had been stored in the Basin in Metropolitan's DYY account. On May 1, 2008, Metropolitan called for the parties to begin withdrawing water from the DYY account in the amount of 33,000 AF per 12-month period. At the end of the calendar year, the account balance was 17,890 AF.

In February 2008, the DYY Expansion Project was initiated by IEUA and Watermaster to evaluate increasing the DYY storage account. The purpose of the DYY Expansion Project was to determine the facilities needed to store up to 150,000 AF and to recover up to 50,000 AFY. The expansion project analysis was completed in December 2008. The expansion project evaluated the technical, financial, and institutional frame work for individual projects to move forward. Negotiations to-date related to actual projects and the amount of expansion have not resulted in any planned expansion projects.

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CHINO BASIN WATERMASTER

IV. INFORMATION

1. Newspaper Articles



Ontario to negotiate \$5 million water rights purchase

By Liset Márquez, Staff Writer

Created: 03/28/2010 07:37:09 PM PDT

ONTARIO - City Council members have given the city manager the green light to negotiate a contract with Praxair to purchase \$4.9 million in water rights.

The agreement will provide Ontario with 426 acre-feet of water per year, plus another 233 acre-feet of stored water and 427 acre-feet of carry over water. Praxair has a plant in Ontario.

"It's both the underlying need of water supply and to plan for the future," said Marvin Shaw, utilities general manager for Ontario.

"In the last few years, you can see how the water supply has fluctuated."

Ontario has been proactive in replenishing its supply. In 2008, the city purchased water rights from Sunkist for \$24 million.

"It's part of the long-term planning for the city of Ontario with the adoption of the Ontario Plan earlier, which lays out the future growth in the city," Shaw said.

In the next 20 years, housing in the city will

grow from more than 45,000 to 104,000 units, according to projections. The population will jump from 173,000 to 360,000 and jobs from 103,394 to 326,000.

Providing and ensuring the water supply for the city, Shaw said, was a reason for the purchase.

Purchasing water rights also means the city would be less reliant on the State Water Project for its resources, he said. The project is a publicly built and operated water and power development and conveyance system.

While this year's rainfall has been good, Shaw said, that isn't always the case. The state has been struggling with a drought the past couple of years.

"Water is the gold of California, it's the future commodity and that's a scarce resource," Councilman Jim Bowman said. "California is a desert and without water it wouldn't be what it is today."

Securing water rights now helps the city's economic viability, Bowman said.

The city's growth will depend on being able to serve the needs of the development community, he said, and water is an important part of those needs.

That cannot take place unless the city secures the necessary water resources, Bowman said.

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liset.marquez@inlandnewspapers.com

But Ontario has always been an anomaly, according to Bowman, who said the city has been proactive in planning ahead.

In 2008, the council approved a \$24 million agreement with Sunkist Growers Inc. to acquire 11.5 acres of land.

The 2008 agreement with Sunkist included 11.5 acres of land. At that time, council members said purchasing the property and the water rights ensured the "future of quality of life."

Earlier this month, the council approved the first step of the process for the Praxair deal, Shaw said.

To complete the rights transfer, City Manager Chris Hughes must finish negotiations with Praxair and complete an approval process with Chino Basin Watermaster, which oversees the Chino Groundwater Basin.

The city manager still has to negotiate the deal as well as go through a process with Chino Basin Watermaster, which facilitates the use of the Chino Groundwater Basin, for the rights transfer.

Shaw said he doesn't expect that process to be completed until the summer.

"As long as its affordable, we will continue to look," Bowman said. "It's smart planning, we don't want to wait until the emergency is upon us, we always plan for an emergency."

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Chino Valley dairies face industry crisis

Oversupply hurting prices

Neil Nisperos, Staff Writer

Created: 03/03/2010 05:51:35 PM PST

Chino dairyman Syp Vander Dussen calls the two-year lull in milk prices absolutely devastating to his operations.

He's not alone.

Dairy farmers in the Inland Valley and throughout California have felt the sting from the price dip, which stems from overproduction, reduced global demand and the higher cost of grain feed.

The dairy farmers are facing another year of 1970s prices for their milk and payments up to 50 percent less than several years ago, according to the National Family Farm Coalition.

As a result, thousands of dairy farmers have gone out of business and thousands more are on the brink of closure.

"On average, all the profits and gains made in the (previous) five years has been lost in the past five years," Vander Dussen said.



Dairy farmers, like the one in Ontario that owns these cows, are facing another year of milk prices below production costs, according to the National Family Farm Coalition. (Will Lester/Staff Photographer)

Projections for 2010 show more low prices, as the cost to produce the milk is outpacing milk sale revenues.

"Starting in the fall of 2008, milk production

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began to collapse," said Rob VandenHeuval, general manager of the Milk Producers Council, a dairy industry policy organization based in Chino.

"The price of milk dropped below the cost to produce the milk, and it's been that case month in and month out for the past 18 months. As long as any dairyman has been alive, it's never been this bad."

VandenHeuval said there are about 60 dairies operating in the Chino Valley.

In 2007, a weak dollar and a dairy shortage from Australia and New Zealand helped increase production because of increased global demand for U.S. milk.

Overproduction, decreased demand with the return of the Australian and New Zealand dairy industry, higher grain prices and a stronger U.S. dollar have fostered the situation that imperils the industry, VandenHeuval said.

"What happened was all of a sudden we had a global oversupply," he said. "We've had 18 months of scaling-back milk production. It's been a very slow process, and it's not easy for individuals to close up shop. In the past a lot of smaller dairies in the Midwest would close up shop, and we got the (supply) correction we needed. Now, people want to survive, not close, and they want to pass the dairy on to the kids, so it's much tougher for a supply correction."

Last year, Sen. Arlen Specter, D-Penn., introduced Senate Bill 1645, which would allow the cost of production for a farmer to be factored into the prices they receive. If approved, milk would be the only commodity of its kind to have a government-set price determined in part by the cost of production.

Milk Producers Council has introduced a herd retirement program in which farmers would be bought out in order to retire their herds. In the past 18 months, about 10 local dairies were closed through the program.

Vander Dussen said there would still be an oversupply of milk even with passage of the bill and since the herd buyout program is voluntary.

Vander Dussen suggested legislation be approved that would discourage dairymen from increasing production.

"Individually, shutting down makes no sense," Vander Dussen said. "With 1,500 producers in California, if you and I were to shut down, it won't affect the state price," he said. "It has to be across the board and it has to be industry-wide."

The Associated Press contributed to this report.

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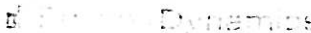


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Australia provides lessons on water

Rebecca Kimitch, Staff Writer

Created: 03/09/2010 08:50:11 PM PST

To help California create beneficial water policies for the future, state water managers are turning for help to Australia and, ironically, to an area with close ties to the history of the Inland Empire.

Tim Brick, chairman of the Metropolitan Water District board of directors, and a delegation of California water leaders recently visited Australia to learn about water management in the face of drought and climate change.

And they went to an area in which an Inland Empire pioneer - George Chaffey - helped develop in the years after he founded the community of Ontario.

The Murray-Darling region was sparsely settled grazing land until the development of large-scale irrigation when Chaffey and his brother W. B. came there from California in 1887 and transformed the land into a rich agricultural region.

Australia has had to make dramatic changes in how it manages its scarce resource, from innovative use of technology to rationing to fundamental changes in how government manages water, said Jennifer McKay, professor

of business and water law at the University of South Australia.

Like California, Australia has met increasing demands for environmental protection, she said.

McKay spoke before a hearing of the Assembly's Select Committee on Regional Approaches to Addressing the State's Water Crisis this month in Sacramento.

"There was a crisis, and there was no choice but change. Fundamental change is possible, and now our system is quite set up to handle climate change," McKay said.

Committee chairman Jose Solorio, D-Anaheim, said it's important for California's water managers to see the strategies they struggle to implement "are very doable."

"We sometimes think we know it all in California. And there are times we don't. It is important to look to other states for their best practices, and every now and then it's good to look to other countries as well," he said.

Solorio pointed to Australia's success at reducing per-capita water use to 30 to 50 gallons a day, compared with about 180 gallons in California. Much of this savings has come from reducing and banning outdoor watering, capturing rainwater, installing dual plumbing in homes - one line for potable water and one line for recycled water, and mass use of water-efficient appliances and dual-flush toilets.

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Last year, California lawmakers passed legislation setting a goal of reducing urban water use by 20 percent by 2020.

"We are shameful in the volume of water we use in this state. It's embarrassing when we talk to people in other places around the world ... people fall out of their chairs when they hear how much water we use," said Wendy Martin, statewide drought coordinator for the Department of Water Resources.

Martin was also part of the recent delegation to Australia.

Although this year's rains might bring California's three- year drought to an end, the state's reservoirs are still dangerously low; its water sources are near ecological collapse; and climate change will fundamentally change water availability, Brick said.

Water managers are increasingly bracing for the impacts of climate change.

"The way climate change is going to hit most people is through water," Brick said.

Particularly concerning for California is the effect of climate change on snowpack levels and snowmelt times. Snowpack is the biggest storage device for the state - holding water for use during hotter summer months.

The National Academy of Science has forecasted

snowpack in the Sierra will drop by 29 percent by the end of the century. And those snows will continue melting earlier.

"What we view as drought in the Southwest is going to be normal in 30 years," Brick said.

California is going through a fundamental change in how it thinks about water, similar to what happened in Australia, Brick said.

For years, water agencies in Southern California have developed sophisticated and well-engineered systems to bring water from as far as Wyoming. The goal was to make residents unaware that the region "had a very serious problem with water," including periodic droughts, Brick said.

"We have worked so hard to almost deny the dry reality of California," he said. "In many ways, in Southern California, we are victims of our own success."

Brick estimates California is 10 years behind Australia in making significant changes.

In addition to slashing household use, Australian officials made across-the-board cuts for agricultural and industrial water use, using technology to improve efficiency in those areas as well.

"These guys really know how to do conservation, recycling, and stormwater management. They are world leaders in these areas. And there is

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much for us to learn," Martin said. "And they have mastered desalination."

Every major city in Australia has built, or is building, a desalination plant.

Brick estimates this and other infrastructure investments have resulted in water costing twice what it does in California, with the cost there continuing to rise.

Although desalination projects are certainly in California's future - one is being built off the coast of Carlsbad - Brick said the state can still make up much ground in conservation before relying heavily on that costly technology.

Barry Nelson, a water policy analyst for the Natural Resources Defense Council, agreed.

"The abundance of waste we have in California compared to Australia means" it is more economical to conserve, he said.

Australia is the driest inhabited continent on Earth and has one of the lowest rainfall amounts in the world. Still, it has historically had fertile areas, particularly in the Murray-Darling river basin, that have made the country a major agricultural exporter.

The Chaffeys began at a sheep station at Mildura where a settlement was established in 1887. Despite rabbit plagues and other difficulties, the new town of Mildura grew and is today a major regional center of more than

50,000 people and is Upland's sister city.

The Chaffeys adapted the plan of Ontario to the present site of Mildura. They developed a series of steam-driven pumps to draw water from the Murray River to irrigate up to 33,000 acres.

Staff writer Joe Blackstock contributed to this report.

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Cucamonga Valley sees water rate hike on horizon

Wendy Leung, Staff Writer

Created: 03/24/2010 05:24:21 PM PDT
RANCHO CUCAMONGA - Eight months after the Cucamonga Valley Water District raised water rates due to increased costs of imported water, it is poised to hike rates about another 7 percent starting May 1.

Upgrades of two water treatment plants that officials say are necessary in order to meet new U.S. Environmental Protection Agency standards are part of the reason for the increase.

Officials from the district - which serves portions or all of Rancho Cucamonga, Upland, Ontario, Fontana and nearby unincorporated areas - estimate the upgrades to the Lloyd Michael and Royer-Nesbit treatment plants in Rancho Cucamonga could cost \$30 million over the next three years.

"Our rates have to ramp up to cover those costs," said Todd Corbin, assistant general manager at the district.

In addition to raising the water rate, the proposal also raises the sewer service fee and recycled water rate. A typical household that has paid an average water bill of \$106.20 every two months, would have to pay \$7.65, or 7.2 percent more, if the rate hike is passed. The proposal also calls for increases through 2014.

On April 27, the district will hold a public hearing about the changes. If passed by the agency's board, some increases will go in effect on May 1 and others July 1.

The proposal also introduces a tiered rate structure for commercial properties similar to that introduced in 2008 for residents. In a tiered structure, the water rate is highest for those who use the most water.

In addition to paying for the infrastructure projects, the planned rate hike will also help the district buy surplus water for groundwater storage. Corbin said it's in the district's interest to buy surplus water when the opportunities arise in order to secure the district's supply.

"It's cheaper for us to buy it now versus buying it later," Corbin said.

The board of directors is expected to vote

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on the rate increase on April 27. Customers can submit a written protest against the fee increase. If the majority of the district's customers, or about 26,400, submit a written protest, the rate can not be adopted.
What: Public hearing on water rate increase

When: 6 p.m. April 27

Where: 10440 Ashford St., Rancho Cucamonga

Information: 909-944-6000, www.cvwdwater.com

Written protests of the water rate hike can be mailed to Secretary of the Board, 10440 Ashford St., Rancho Cucamonga 91730

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


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