

Minutes
CHINO BASIN WATERMASTER
JOINT APPROPRIATIVE & NON-AGRICULTURAL POOL MEETING
September 11, 2008

The Joint Appropriative and Non-Agricultural Pool Meeting were held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on September 11, 2008 at 10:00 a.m.

APPROPRIATIVE POOL MEMBERS PRESENT

Ken Jeske, Chair	City of Ontario
Robert DeLoach	Cucamonga Valley Water District
Umesh Shah	Jurupa Community Services District
Charles Moorrees	San Antonio Water Company
Raul Garibay	City of Pomona
Anthony La	City of Upland
Rich Atwater	Inland Empire Utilities Agency
Mark Kinsey	Monte Vista Water District
Mike McGraw	Fontana Water Company
Dave Crosley	City of Chino
J. Arnold Rodriguez	Santa Ana River Water Company

NON-AGRICULTURAL POOL MEMBERS PRESENT

Kevin Sage	Vulcan Materials Company (Calmat Division)
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Watermaster Staff Present

Kenneth R. Manning	Chief Executive Officer
Sheri Rojo	CFO/Asst. General Manager
Ben Pak	Senior Project Engineer
Danielle Maurizio	Senior Engineer
Sherri Lynne Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Mark Wildermuth	Wildermuth Environmental Inc.
Tom McCarthy	Wildermuth Environmental Inc.

Others Present

Mohamed El-Amamy	City of Ontario
David DeJesus	Three Valleys Municipal Water District
Rick Hansen	Three Valleys Municipal Water District
Patrick Sheilds	Inland Empire Utilities Agency
Ryan Shaw	Inland Empire Utilities Agency
Marv Shaw	Inland Empire Utilities Agency
Andrew Lazenby	Black & Veatch
Tammy Jones	Sunkist Counsel
Bob Lemons	RBF/Chino Hills Counsel

Chair Jeske called the Joint Appropriative and Non-Agricultural Pool Meeting to order at 10:04 a.m.

AGENDA - ADDITIONS/REORDER

There were no additions or reorders made to the agenda.

I. CONSENT CALENDAR**A. MINUTES**

1. Minutes of the Joint Appropriative & Non-Agricultural Pool Meeting held July 10, 2008

B. FINANCIAL REPORTS

1. Cash Disbursements for the month of July 2008
2. Watermaster Visa Check Detail
3. Combining Schedule for the Period July 1, 2007 through June 30, 2008 (*Page 15*)
4. Treasurer's Report of Financial Affairs for the Period June 1, 2008 through June 30, 2008
5. Budget vs. Actual July 2007 through June 2008
6. Cash Disbursements for the month of August 2008
7. Watermaster Visa Check Detail
8. Combining Schedule for the Period July 1, 2008 through July 31, 2008
9. Treasurer's Report of Financial Affairs for the Period July 1, 2008 through July 31, 2008
10. Budget vs. Actual July 2007 through July 2008

C. INTERVENTION

1. Consider Approval for Intervention into the Overlying (Non-Agricultural Pool) – City of Ontario (as an Overlying Non-Agricultural Party)

Item 1C was pulled for separate discussion.

D. WATER TRANSACTION

1. **Consider Approval for Notice of Sale or Transfer** – Fontana Water Company ("Company") has agreed to purchase from The Nicholson Trust annual production right in the amount of 8.185 acre-feet. Date of Application: May 16, 2008
2. **Consider Approval for Notice of Sale or Transfer** – Cucamonga Valley Water District is purchasing 2,500 acre-feet of water from Marygold Mutual Water Company. Date of Application: September 4, 2008
3. **Consider Approval for Notice of Sale or Transfer** – The City of Ontario (as an Overlying Non-Agricultural Party) is purchasing from Sunkist Growers, Inc. all of the amount of Sunkist's water in storage as of June 30, 2008. In addition, Sunkist's annual safe yield production rights in the amount of 1,851.402 acre-feet will be permanently transferred to the City of Ontario (as an Overlying Non-Agricultural Party). Date of Application: August 19, 2008

Motion by Kinsey, second by DeLoach, and by unanimous vote – Non-Ag concurred
Moved to approve Consent Calendar Items A, B, and D, as presented

Item C was pulled for separate discussion and motion. Mr. Manning stated Watermaster received an application for an intervention from the City of Ontario pursuant to the arrangements agreed to in the Peace II Agreement, paragraph 4.4. Staff has reviewed the application and feels it is in compliance with intervention approved in the past. The City of Ontario will be considered a Non-Agricultural Pool member. Staff recommends this intervention be approved. A discussion regarding a member being in two different pools, permitted uses, and water use restrictions ensued. Mr. Jeske offered comment on the submitted intervention. A discussion regarding the intervention ensued. Mr. Manning noted there are two separate actions being taken on this, one being the actual intervention which will move through the Watermaster process this month and the second being the water transaction which will go through the Pool process this month and to the Advisory and Board next month.

Motion by DeLoach, second by Kinsey, and by unanimous vote – Non-Ag concurred
Moved to approve Consent Calendar Item C, as presented

II. BUSINESS ITEMS**A. SEMI-ANNUAL STATUS REPORT**

Mr. Manning stated this report will be filed with the court. The Semi-Annual Status Report will give the court an update on basin activities over a six month period. This report used to be a quarterly report; however, the court requested that it be changed to a semi-annual report. Mr. Manning stated staff is looking at different ways to change the formatting of the report which will make it easier to read. Staff is seeking approval to receive and file this report. A discussion regarding the agricultural production meters ensued. Mr. DeLoach requested a staff report be given at a future meeting regarding meter information as an information item only.

Motion by DeLoach, second by McGraw, and by unanimous vote – Non-Ag concurred
Moved to receive and file the Semi-Annual Status Report with the court, as presented

B. BUDGET AMENDMENT

Mr. Manning stated this item is in conformance with the new policies adopted recently regarding budget amendments. This item pertains to the debt services paid to Inland Empire Utilities Agency which was previously budgeted for the Phase I aspect of the Recharge Master Plan project. Watermaster provides that money to IEUA and at the end of the year IEUA uses that money to pay our portion of the debt service. This year the amount was originally budgeted at \$360,000 which was the amount IEUA told Watermaster would be the amount necessary to cover the debt service; however, the invoice was received at \$560,000 noting a \$45,000 credit, which would then require a budget amendment of \$151,594 for approval. A discussion regarding this item ensued. Mr. Atwater stated this item originated in 2002 and was set up with a variable rate. IEUA staff estimated the payment is based on estimates of the variable interest rate which is currently at 1.5% and IEUA staff is estimating, a rate for the year, of 3% which is how the \$500,000+ number came to be. Mr. DeLoach asked Mr. Atwater if staff should plan on that same number for next year. Mr. Atwater stated we should all work together on this. A discussion regarding shifting monies from other accounts so that the bottom line of the budget would not be affected ensued. Mr. McGraw asked for clarification as to how this invoice would be paid. Ms. Rojo responded that this debt service payment will be charged to the appropriators based on their percent share of operating safe yield.

Motion by McGraw, second by DeLoach, and by unanimous vote – Non-Ag concurred
Moved to approve Budget Amendment, as presented

C. INLAND EMPIRE UTILITIES AGENCY DRY YEAR YIELD REPORT BY IEUA STAFF

Mr. Atwater gave the Updated Water Demand & Supply Forecasts and Dry Year Yield Status presentation. Mr. Atwater reviewed the updated demand and supply forecasts through the year 2035 in detail along with the forecasted trends. Mr. Atwater reviewed the implications for groundwater replenishment options which included alternative options to construct new recharge facilities. The current and additional Chino Basin recharge capacities were reviewed for the basins, in-lieu, and ASR wells. The summary of initial and expanded DYY Program "puts" and "takes" per acre-foot was examined. Mr. Atwater reviewed the summary of program participants and facility requirements in detail along with reviewing the "condensed" project work plan and schedule. A discussion regarding Mr. Atwater's presentation ensued. Mr. Wildermuth offered comment on the schedule.

D. SALE OF OVERLYING NON-AGRICULTURAL POOL STORED WATER

Mr. Manning stated following the approval of the Peace Agreement and during the working on Peace II there has been an effort to try and resolve the issue of "stranded water" from the Overlying Non-Agricultural Pool. There are provisions within Peace II that were adopted to assist in freeing up that water. Watermaster supplied to the Appropriative Pool a memo drafted by Watermaster legal counsel that discussed three different options regarding this water. One of the options was to conduct an auction and since then the Appropriative Pool has met numerous times and discussed that option and has instructed Watermaster staff to look at the

auction option as the primary way of disposing of this water. Based on that instruction, Counsel Slater is here today to discuss the memo drafted by counsel to review the options on the sale of that water. Counsel Slater reviewed the memo dated September 3, 2008 regarding the auction prospect. Mr. DeLoach stated several meetings regarding this issue have taken place and he also commented on the auction process noting Cucamonga Valley Water District is in full support of this process. A lengthy discussion regarding this matter ensued. Counsel Slater stated counsel needs clear next steps. It was noted this item will be placed on an upcoming agenda after the sub-committee meets again.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. Santa Ana River Water Right Final Decision

Counsel Fife stated the Watermaster application was unanimously approved on September 2, 2008 which puts an end to the Watermaster participation in this process. The Orange County Water District and Western Municipal Water District's applications are still in the process of being reviewed and counsel will keep an eye on those. A draft of that permit should be forthcoming shortly. Counsel Fife noted there were some comments from GE and from a Native American party regarding water rights. GE submitted comments regarding the Ely Basins and Counsel Fife reviewed those comments. The Tongva American Indian person who claims to be the Tongva tribal litigator commented on our decision and was adamant that the decision was illegal and everything about the process was illegal and he stated a claim to the water rights in the Chino Basin. A great deal of correspondence has taken place between him and counsel, Watermaster staff, and the State Board staff over the last 30 days. This matter will be brought back as things progress with regard to this person and possible litigation.

2. LRP Funding Agreement

Counsel Fife stated this item begins on page 109 of the meeting packet as part of the agreement with MWD concerning the LRP Funding. There are commitments made to MWD about the expansion of the Dry Year Yield Program and those commitments must be fulfilled by September 1, 2009; a process will be gone through to accomplish completion by this date. On page 109 it states that by September 1, 2009 Watermaster needs to have approval of expansion of the DYY Program and Watermaster must waive losses on the MWD Storage Account; both for the original 100,000 acre-feet and this additional expansion. These are conditions which will allow us to hold onto the LRP money.

3. Report on the Issue of Governance

Counsel Fife stated this item came up due to a joint pleading filed by the City of Chino Hills, City of Chino, and Monte Vista Water District about the Special Referee issue and though Watermaster is not participating in that, one of the issues those parties raised was the issue of governance by way of a stipulation that Watermaster has signed. The allegation states that Watermaster has failed to fulfill its duties under that stipulation. In August, a Watermaster Board conference call took place and MVWD who was on that call asserted to the board that Watermaster and Watermaster staff had not adequately addressed the governance issue. Counsel and staff's understanding was that at the last Strategic Planning Conference in 2007 this issue of governance was covered and the parties participating at that time felt that the issue had been adequately covered and Watermaster had fulfilled its responsibilities under the stipulations that it entered into and that the matter could be tabled. Due to the issues in the pleadings with the court; because of the statements made to the Board, counsel felt this matter should be put under the Legal Counsel Report and to then make an inquiry of the Pools as to whether Watermaster has or has not fulfilled its responsibility. If Watermaster has not satisfactorily responded to this matter a process could be created in order to address this issue. Mr. Jeske offered comment regarding this matter. Mr. Manning stated staff needs some sort of statement that this committee concurred that the issue has been resolved or that it has not been resolved.

After discussion, it was noted this item needs to be brought back as an action item in October with a detailed staff letter outlining events.

4. Status of Judge Selection

Counsel Fife stated the most recent information received from the court indicating the 170.6 motion filed by the City of Chino was granted. This means that Judge Plotkin will not be Watermaster's new judge. The court anticipates reassigning the matter next week. The hearing which was scheduled for September 26, 2008 has been continued to October 21, 2008 but the new judge will probably set their own date. Counsel Fife stated a list of potential judges was sent out to all legal departments in order to try and prevent another 170.6 being filed against the next new judge. Counsel is asking for feedback on the provided judge list of potentially acceptable judges. A discussion regarding this matter ensued.

5. MOU of Water Accounting Procedures in Chino Basin

Counsel Fife stated staff has received a proposed MOU from Metropolitan Water District concerning the accounting procedures regarding the Dry Year Yield account. It is being distributed to all the parties for review and comment. Counsel Fife reviewed page 131 in the meeting packet in detail and asked for the parties to review this and provide comment. This item will be brought back as an action item in October. Mr. DeLoach inquired as to whom to direct comments or questions to, and Mr. Atwater stated there is a DYY meeting on September 25, 2008 and comments and questions can be brought up at that meeting. A discussion regarding this item ensued.

B. ENGINEERING REPORT

1. Oral Progress Report on Engineering Activities, July – August 2008

Mr. Wildermuth stated this item will be on the agenda monthly as an update on the engineering activities. Mr. Wildermuth stated he is currently working with Black & Veatch and the Dodson Group on the Dry Year Yield Expansion tasks. Mr. Wildermuth stated improvements to the actual groundwater model are being made. In the last two months The Recharge Master Plan project schedule has been implemented based on the outline which was sent to the court. There has been a lot of work being done in the MZ1 area for repairs and maintenance of equipment. For MZ3 we were successful in getting another AB303 grant to look at specific water quality issues and work has been done in that area. Mr. Wildermuth reviewed the list of tasks performed by Wildermuth staff in July and August. Preparation has begun on the State of the Basin Report. Condition Subsequent Report no. 7 is going to begin being worked on which is due at the end of 2008. Mr. Wildermuth stated Wildermuth Environmental no longer supports Data X and that has been replaced by D.A.V.E. which is called Hydro DAVE. Watermaster staff has now has Hydro DAVE installed on their systems and if any of the Watermaster parties want this software installed, arrangements can be made to do so.

C. CEO/STAFF REPORT

1. Legislative Update

Mr. Manning stated the state is now running 73 days without a budget. There are several bills on the governor's desk waiting for signature. Mr. Manning highlighted some of the bills which are of interest to water parties.

2. Recharge Update

Mr. Manning stated the most current recharge update for July is available on the back table for your review.

3. MWD Groundwater Conjunctive Use Study

Mr. Manning stated Metropolitan Water District is working with groundwater agencies and managers throughout their area to develop guidelines and policies that can be submitted to the Board as part of the IRP process which is due next year. There have been two

meetings held, one in July and one in August and the next to take place in September. Watermaster staff has been working very close with them and progress is being made; however, it appears it is not going to be complete when MWD anticipated it.

4. Report on Anticipated Board Closed Session Items

Mr. Manning stated a closed session will take place at the upcoming Watermaster Board meeting.

5. Strategic Planning Conference Update

Mr. Manning stated the flyer for the upcoming conference is on the back table and staff is encouraging all parties to attend this important conference which will be focusing mainly on the development of the Recharge Mater Plan.

IV. INFORMATION

1. Chino Basin Recycled Water Groundwater Recharge Program Quarterly Monitoring Report for April Through June 2008

No comment was made regarding this item.

2. Newspaper Articles

No comment was made regarding this item.

V. POOL MEMBER COMMENTS

No comment was made regarding this item.

VI. OTHER BUSINESS

No comment was made regarding this item.

VII. FUTURE MEETINGS

September 11, 2008	10:00 a.m.	Joint Appropriative & Non-Agricultural Pool Meeting
September 16, 2008	9:00 a.m.	Agricultural Pool Meeting @ IEUA
September 25, 2008	8:00 a.m.	IEUA Dry Year Yield Meeting @ CBWM
September 25, 2008	9:00 a.m.	Advisory Committee Meeting
September 25, 2008	11:00 a.m.	Watermaster Board Meeting
September 28-30, 2008		Strategic Planning Conference, Lake Arrowhead Resort

The Joint Appropriative and Non-Agricultural Pool meeting was dismissed by Chair Jeske at 11:55 a.m.

Secretary: _____

Minutes Approved: October 9, 2008