

FEE EXEMPT

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13 **CHINO BASIN WATERMASTER**

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 FOR THE COUNTY OF SAN BERNARDINO

16 CHINO BASIN MUNICIPAL WATER
17 DISTRICT,

18 Plaintiff,

19 v.

20 CITY OF CHINO, ET AL.,

21 Defendants.

22 **Case No. RCV RS 51010**

23 [Assigned for All Purposes to the
24 Honorable Stanford E. Reichert]

25 **DECLARATION OF JOSEPH S. JOSWIAK
26 IN SUPPORT OF CHINO BASIN
27 WATERMASTER LIMITED OPPOSITION
28 TO MOTION OF APPROPRIATIVE POOL
MEMBER AGENCIES RE:
AGRICULTURAL POOL LEGAL AND
OTHER EXPENSES**

Date: November 13, 2020

Time: 1:30 pm

Dept: S35

[Filed concurrently herewith: Limited Opposition
to Motion of Appropriative Pool Member
Agencies re Agricultural Pool and Other
Expenses; Declaration of Traci Stewart]

DECLARATION OF JOSEPH S. JOSWIAK

I, Joseph S. Joswiak, declare:

1. I am the Chief Financial Officer (“CFO”) for the Chino Basin Watermaster (“Watermaster”). I have been CFO since April 2010 and have personal knowledge of the facts stated in this declaration, except where stated on information and belief, and, if called as a witness, I could and would competently testify to them under oath. I make this declaration in support of the above-referenced filing.

2. As Watermaster CFO, I am responsible for the administration of Watermaster’s financial affairs, including but not limited to preparing the Watermaster annual budget, and processing and accounting for assessments to members of the Pool Committees. I am familiar with Watermaster’s practices and procedures, as well as actions taken by the Pool Committees, Advisory Committee and Watermaster Board.

3. In accordance with the Restated Judgment, the Chino Basin Watermaster Rules and Regulations and Watermaster policies, Watermaster has undertaken the same budget process for the past decade.

4. The fiscal year (July to June) budget includes Pool Committee expenses, such as expenses for Pool Committee legal counsel, which are allocated to the members of the respective Pools. Every February, I or one of my staff members request the Pool Committee chairs and vice chairs provide their estimated budget for the upcoming fiscal year. The Pool Committees develop their estimated budgets on their own accord. Watermaster does not vet or audit the budgets proposed by the Pool Committees, including their budgets for legal services.

5. In March and April of each year, Watermaster holds workshops with stakeholders to review and receive comments on the proposed budget, which I attend. The draft budget is then presented to the Pool Committees for review and recommendation at their regular meetings in May. After consideration by the Pool Committees, the Advisory Committee reviews and approves a budget in May, with the Board adopting the budget in May. This approved budget is the basis of the Assessment Package which is usually presented and approved in November. Upon approval of the Assessment Package, Watermaster invoices the respective Pool members to administer

1 payments for their Pool Committee's budget expenses. In the case of the Overlying (Agricultural)
2 Pool ("Ag Pool") expenses, including its budgeted legal fees, Watermaster invoices the members
3 of the Appropriative Pool in accordance with the Peace Agreement, spread according to the
4 percentage of the unproduced Ag Pool water that each Appropriator is allocated.

5 6. To the extent any Pool Committee expense exceeds the budgeted amount, the Pool
6 Committee will determine how to pay for the excess budget amounts. In practice, each Pool
7 Committee provides direction to Watermaster regarding payment of the excess amounts. For the
8 Appropriative Pool and Overlying (Non-Agricultural) Pool, Watermaster is generally directed to
9 invoice the Pool's members for the excess amounts. With respect to the Ag Pool, if the excess can
10 be covered through dollars already collected for another budgeted Ag Pool expense (e.g.,
11 transferring amounts budgeted to special projects to legal expenses), the Pool Committee will
12 typically direct Watermaster to process a budget transfer. This has happened in regard to Ag Pool
13 legal expenses in every year from 2015 to 2020. However, on the one occasion in which the excess
14 could not be covered in that manner (i.e., this year), the Ag Pool Committee requested Watermaster
15 to increase the budget for the excess amount and directly bill the Appropriative Pool members for
16 the increased budget.

17 7. In accordance with Section 5.4(a) of the Peace Agreement, the Ag Pool's
18 administrative, including legal, and special project costs are assessed against the Appropriative
19 Pool members on an acre-foot basis—e.g., each acre-foot of Ag Pool water produced by an
20 Appropriative Pool member is assessed a charge to cover the Ag Pool's budgeted administrative
21 and special project costs.

22 8. In my role as CFO, I administer and oversee these Watermaster budget processes
23 described above.

24 9. Using the process described above, each of the Pool Committees set their 2019-2020
25 fiscal year legal budgets. The Advisory Committee approved and the Watermaster Board adopted
26 the Watermaster budget in May 2019, including these amounts.

27 10. On a monthly basis, the Ag Pool's legal expenses tracked the budget until April
28 2020, when the Ag Pool's legal expenses exceeded the monthly budgeted amount. By the end of

1 the fiscal year, June 2020, the Ag Pool legal expenses had exceeded the budgeted amount by
2 \$229,008.75.

3 11. Attached hereto as **Exhibit A** is a true and correct copy of the minutes from the Ag
4 Pool Committee's special meeting on June 30, 2020.

5 12. After the Ag Pool Committee's special meeting on June 30, 2020, Watermaster
6 transferred a portion of the Ag Pool's budget for other expenses to cover \$63,314.00 of the
7 increased expenses for the Ag Pool's legal services.

8 13. Attached hereto as **Exhibit B** is a true and correct copy of the minutes from the
9 Watermaster Board's special meeting on August 4, 2020.

10 14. At their regular August meetings, the Ag Pool and the Overlying (Non-Agricultural)
11 Pool Committees considered the proposed assessment of Ag Pool legal expenses on the members
12 of the Appropriative Pool, but neither Pool Committee offered any advice or assistance.

13 15. Attached hereto as **Exhibit C** is a true and correct copy of the minutes from the
14 Appropriative Pool Committee's regular meeting on August 13, 2020.

15 16. At its regular August meeting, the Advisory Committee considered the proposed
16 assessment of Ag Pool legal expenses on members of the Appropriative Pool, but did not offer any
17 advice or assistance.

18 17. Attached hereto as **Exhibit D** is a true and correct copy of the August 25, 2020 Staff
19 Report to the Board entitled "Overlying (Agricultural) Pool Committee Legal Expense Increase
20 (Business Item II.A.)."

21 18. Attached hereto as **Exhibit E** is a true and correct copy of the minutes from the
22 Watermaster Board's regular meeting on August 25, 2020.

23 19. During my tenure at Watermaster, it has been Watermaster's practice to treat the
24 Pool Committee legal expenses and invoices for each Pool in the same manner. The Pool
25 Committees direct their counsel; not Watermaster. Each of the Pool Committees provide their
26 respective legal budgets to be included in the overall fiscal year budget, and that budget proceeds
27 through the Watermaster process. After the budget is approved and funds have been collected, the
28 Pool Committee chairs direct Watermaster to make payment in the amount of the outstanding

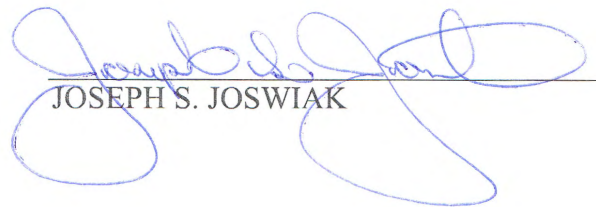
1 invoices only after they have been approved by the respective Pool Committee chairs. Watermaster
2 does not review any information supporting the amounts due because Watermaster does not direct
3 Pool Committee legal counsel. It only processes the payment of the invoiced amount in accordance
4 with the direction provided from the Pool Committees honoring the discretion of each Pool to incur
5 expenses as they may determine in the best interest of that Pool.

6 20. To the extent any Pool Committee's legal expenses exceed the budgeted amount,
7 Watermaster follows the procedures described above. Over the past several years, Watermaster has
8 processed budget increases for each of the Pool Committee's legal services. For example, in fiscal
9 year 2018-2019, the Overlying (Non-Agricultural) Pool Committee directed Watermaster to
10 increase its legal budget from \$60,000 to \$95,000 during the fiscal year. Similarly, in fiscal year
11 2019-2020, the Appropriative Pool, in successive actions, directed Watermaster to increase its
12 budget from \$100,000 to \$200,000. The budget increases have been approved in the sole direction
13 of each of the Pool Committees and have not been subject to the other two Pool Committees,
14 Advisory Committee or Watermaster Board review.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing
16 is true and correct.

17 Dated this 27th day of October, 2020, at Riverside, California.

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JOSEPH S. JOSWIAK

EXHIBIT A

MINUTES
CHINO BASIN WATERMASTER
AGRICULTURAL POOL – SPECIAL MEETING
June 30, 2020

The Agricultural Pool special meeting was held via GoToMeeting (conference call and web meeting) on June 30, 2020.

AGRICULTURAL POOL MEMBERS PRESENT

| | |
|--------------------------------------|---------------------------|
| Bob Feenstra, Chair | Dairy |
| Henry De Haan | Dairy |
| Pete Hall | State of California – CIM |
| Carol Boyd | State of California – CIM |
| John Huitsing | Dairy |
| Ron Pietersma | Dairy |
| Nathan deBoom | Dairy |
| Geoffrey Vanden Heuvel | Dairy |
| Jimmy Medrano | State of California – CIM |
| Gino Filippi for Ron LaBrucherie Jr. | Crops |

OTHERS PRESENT

| | |
|---------------|---------------------------|
| Tracy Egoscue | Egoscue Law Group, Inc. |
| Marilyn Levin | State of California - DOJ |
| Richard Rees | Wood plc |
| Paul Hofer | Crops |

CALL TO ORDER

Chair Feenstra called the Agricultural Pool special meeting to order at 10:00 a.m.

AGENDA – ADDITIONS/REORDER

None

I. CONFIDENTIAL SESSION

Chair Feenstra called for a confidential session at 10:00 a.m. to discuss the following:

1. Ag Pool Budget
2. Safe Yield Reset
3. Pooling Plan
4. Contest

Confidential session concluded at 11:38 a.m. with the following reportable action:

Motion by Mr. Nathan deBoom, seconded by Ms. Carol Boyd, and passed as shown in the attachment provided by Pool Counsel and attached to these minutes

Pursuant to the terms of the Peace Agreement (Paragraph 5.4(a)), all assessments and expenses of the Ag Pool shall be paid by the Appropriative Pool.

The Ag Pool has exceeded the budget for FY (2019/20). Currently the May 2020 Ag Pool legal services invoice has not been paid, and the Watermaster is hereby asked to pay all pending invoices including, and without limitation, the TMDL costs for SAWPA.

Among other tasks, funds from the Ag Pool Special Projects budget (account 8471) should be moved to the Ag Pool Legal Services Budget (account 8467).

The Watermaster has refused to promptly pay the pending invoices without justification and should amend the budget as appropriate and necessary to cover all pending invoices.

ADJOURNMENT

Chair Feenstra adjourned the Agricultural Pool special meeting at 11:38 a.m.

Secretary: _____

Approved: _____ July 9, 2020

Attachments:

1. 20200630 Special Agricultural Pool Meeting Motion.

063020 Special Ag Pool Meeting

Motion—Nathan De Boom

Second—DAG Carol Boyd

Pursuant to the terms of the Peace Agreement (Paragraph 5.4(a)), all assessments and expenses of the Ag Pool shall be paid by the Appropriative Pool.

The Ag Pool has exceeded the budget for FY (2019/20). Currently the May 2020 Ag Pool legal services invoice has not been paid, and the Watermaster is hereby asked to pay all pending invoices including, and without limitation, the TMDL costs for SAWPA.

Among other tasks, funds from the Ag Pool Special Projects budget (account 8471) should be moved to the Ag Pool Legal Services Budget (account 8467).

The Watermaster has refused to promptly pay the pending invoices without justification and should amend the budget as appropriate and necessary to cover all pending invoices.

Motion Passed

EXHIBIT B

MINUTES
CHINO BASIN WATERMASTER
WATERMASTER BOARD – SPECIAL MEETING
August 4, 2020

The Watermaster Board special meeting was held via GoToMeeting (conference call and web meeting) only on August 4, 2020.

WATERMASTER BOARD MEMBERS PRESENT ON CALL

| | |
|-------------------------------|--|
| Jeff Pierson, Chair | Agricultural Pool – Crops |
| James Curatalo, Vice-Chair | Fontana Union Water Company |
| Bob Kuhn, Secretary/Treasurer | Three Valleys Municipal Water District |
| Bob Bowcock | CalMat Co. |
| Steve Elie | Inland Empire Utilities Agency |
| Don Galleano | Western Municipal Water District |
| Paul Hofer | Agricultural Pool – Crops |
| Victor Preciado | City of Pomona |
| Peter Rogers | City of Chino Hills |

WATERMASTER STAFF PRESENT AT WATERMASTER

| | |
|----------------|--------------------------|
| Peter Kavounas | General Manager |
| Janine Wilson | Senior Accountant |
| Vanessa Aldaz | Administrative Assistant |

WATERMASTER STAFF PRESENT ON CALL

| | |
|----------------|---|
| Joseph Joswiak | Chief Financial Officer |
| Anna Nelson | Executive Services Director/Board Clerk |
| Justin Nakano | Water Resources Technical Manager |

WATERMASTER CONSULTANTS PRESENT ON CALL

| | |
|--------------|--------------------------------------|
| Scott Slater | Brownstein Hyatt Farber Schreck, LLP |
| Andy Malone | Wildermuth Environmental, Inc. |

OTHERS PRESENT ON CALL

| | |
|------------------|--|
| Ron Craig | City of Chino Hills |
| Chris Berch | Jurupa Community Services District |
| David De Jesus | Three Valleys Municipal Water District |
| Gino Filippi | Agricultural Pool – Crops |
| Shivaji Deshmukh | Inland Empire Utilities Agency |
| Sylvie Lee | Inland Empire Utilities Agency |
| Brian Geye | California Speedway Corporation |
| Eduardo Espinoza | Cucamonga Valley Water District |
| Bob Feenstra | Agricultural Pool – Dairy |
| Ben Lewis | Golden State Water Company |
| Brian Lee | San Antonio Water Company |
| John Bosler | Cucamonga Valley Water District |
| Tracy Egoscue | Egoscue Law Group, Inc. |
| Carol Boyd | State of California – CIM |
| Courtney Jones | City of Ontario |
| Randall Reed | Cucamonga Valley Water District |
| Richard Rees | Wood plc |
| Ryan Shaw | Western Municipal Water District |
| Eunice Ulloa | City of Chino |
| Amanda Coker | City of Chino |
| Chris Diggs | City of Pomona |
| Christiana Daisy | Inland Empire Utilities Agency |

Dave Crosley
Elizabeth Calciano
Gina Nicholls
Jimmy Gutierrez
John Huitsing
John Lopez
Kristina Robb
Sandra Rose
Steven Ledbetter
Thomas Bunn
Marilyn Levin
Matthew Litchfield
May Atencio
Nathan deBoom
Praseetha Krishnan

City of Chino
Hensley Law Group
Nossaman LLP
Jimmy L. Gutierrez, A Law Corporation
Agricultural Pool – Dairy
Santa Ana River Water Company
County of San Bernardino
Monte Vista Water District
West End Consolidated Water Co.
Lagerlof Senecal Gosney & Kruse LLP
State of California – DOJ
Three Valleys Municipal Water District
City of Fontana
Agricultural Pool – Dairy
Cucamonga Valley Water District

CALL TO ORDER

Chair Pierson called the Watermaster Board meeting to order at 11:33 a.m.

(0:02:01) Ms. Nelson conducted the roll call and announced that all Board members were present.

PUBLIC COMMENTS

None

AGENDA - ADDITIONS/REORDER

None

I. BUSINESS ITEMS

A. OVERLYING (AGRICULTURAL) POOL LEGAL BUDGET INCREASE (POSSIBLE ACTION)

Provide direction to Watermaster Staff.

(0:06:00) Messrs. Kavounas and Slater gave a report. A discussion ensued.

(0:26:11) Mr. Kavounas introduced a staff recommended motion. Additional discussion ensued.

(0:54:08) Mr. Elie moved to approve the staff recommended motion and Mr. Hofer seconded the motion.

(0:55:07) Vote taken

Motion by Mr. Steve Elie, seconded by Mr. Paul Hofer, and approved by majority vote:

The Board directs Watermaster to offer the proposed assessment of Agricultural expenses set forth in its revised budget, to be levied on the members of the Appropriative Pool pursuant to Paragraph 5.4 of the Peace Agreement, to the 3 Pools and the Advisory Committee for their advice and assistance, honoring the intent of the 2009 Joint Pool Committee recommendation. The Board will consider the matter at its special August Board meeting scheduled for August 25, 2020.

The roll call vote outcome is attached to these minutes.

ADJOURNMENT

Chair Pierson adjourned the Watermaster Board special meeting at 12:32 p.m.

Secretary: _____

Approved: _____ August 25, 2020

Attachments:

1. 20200804 Watermaster Board Roll Call Vote Outcome for Business Item II.A.

| |
|---|
| <p align="center">August 4, 2020 Watermaster Special Board Meeting Roll Call Vote for Business Item I.A. Overlying (Agricultural) Pool Legal Budget Increase</p> |
|---|

| Member | Alternate | I.A. |
|--------------------------------|-----------|--------------------|
| Bowcock, Bob | | yes |
| Curatalo, James, Vice-Chair | | yes |
| Elie, Steve | | yes |
| Galleano, Don | | yes |
| Hofer, Paul | | yes |
| Kuhn, Bob, Secretary/Treasurer | | no |
| Preciado, Victor | | yes |
| Rogers, Peter | | yes |
| Pierson, Jeff, Chair | | yes |
| OUTCOME: | | Passed by Majority |

EXHIBIT C

MINUTES
CHINO BASIN WATERMASTER
APPROPRIATIVE POOL MEETING
August 13, 2020

The Appropriative Pool meeting was held by GoToMeeting (conference call and web meeting) on August 13, 2020.

APPROPRIATIVE POOL MEMBERS PRESENT ON CALL

| | |
|--|------------------------------------|
| John Bosler, Chair | Cucamonga Valley Water District |
| Cris Fealy, Vice Chair | Fontana Water Company |
| Cris Fealy | Nicholson Family Trust |
| Ron Craig | City of Chino Hills |
| Dave Crosley | City of Chino |
| Chris Diggs | City of Pomona |
| Steven Ledbetter for Rosemary Hoerning | City of Upland |
| Steven Ledbetter for Rosemary Hoerning | West End Consolidated Water Co. |
| Courtney Jones | City of Ontario |
| Josh Swift | Fontana Union Water Company |
| Brian Lee | San Antonio Water Company |
| Justin Scott-Coe for Van Jew | Monte Vista Water District |
| Justin Scott-Coe for Van Jew | Monte Vista Irrigation Company |
| Chris Berch | Jurupa Community Services District |
| Ben Lewis | Golden State Water Company |
| Todd Minten | Santa Ana River Water Company |

WATERMASTER STAFF PRESENT AT WATERMASTER

| | |
|----------------|--------------------------|
| Peter Kavounas | General Manager |
| Vanessa Aldaz | Administrative Assistant |
| Janine Wilson | Senior Accountant |

WATERMASTER STAFF PRESENT ON CALL

| | |
|---------------------|---------------------------------------|
| Joseph Joswiak | Chief Financial Officer |
| Edgar Tellez Foster | Water Resources Mgmt. & Planning Dir. |
| Anna Nelson | Executive Services Director |
| Justin Nakano | Water Resources Technical Manager |

WATERMASTER CONSULTANTS PRESENT ON CALL

| | |
|------------------|--------------------------------------|
| Brad Herrema | Brownstein Hyatt Farber Schreck, LLP |
| Andy Malone | Wildermuth Environmental, Inc. |
| Mark Wildermuth | Wildermuth Environmental, Inc. |
| Samantha Adams | Wildermuth Environmental, Inc. |
| Carolina Sanchez | Wildermuth Environmental, Inc. |

OTHERS PRESENT ON CALL

| | |
|--------------------|---------------------------------------|
| John Schatz | John J. Schatz, Attorney at Law |
| Kevin O'Toole | Orange County Water District |
| Randall Reed | Cucamonga Valley Water District |
| Praseetha Krishnan | Cucamonga Valley Water District |
| Eunice Ulloa | City of Chino |
| Marilyn Levin | State of California – DOJ |
| Joshua Aguilar | Inland Empire Utilities Agency |
| Pete Hall | State of California – CIM |
| Sylvie Lee | Inland Empire Utilities Agency |
| Jimmy Gutierrez | Jimmy L. Gutierrez, A Law Corporation |
| Amanda Coker | City of Chino |
| Brian Geye | California Speedway Corporation |

Christopher Quach
 Scott Burton
 David De Jesus
 Eduardo Espinoza
 Kaitlyn Dodson-Hamilton
 Shawnda Grady
 Steve Nix
 Tom O'Neill
 Mark Gibboney

City of Ontario (Non-Ag)
 City of Ontario
 Three Valleys Municipal Water District
 Cucamonga Valley Water District
 Tom Dodson & Associates
 Ellison Schneider Harris & Donlan LLP
 City of Upland
 Chino Basin Desalter Authority
 Cucamonga Valley Water District

CALL TO ORDER

Chair Bosler called the Appropriative Pool meeting to order at 9:00 a.m.

ROLL CALL

(0:01:25) Ms. Nelson conducted the roll call and announced that a quorum was present.

AGENDA - ADDITIONS/REORDER

(0:04:10) Mr. Kavounas announced that there was a request from the Pool for Business Item II.C., 2020 OBMP CEQA – Increased Scope of Work (Discussion Only) to be given first during the Business Item portion of the agenda.

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

Approve as presented:

1. Minutes of the Appropriative Pool Special Meeting held July 1, 2020
2. Minutes of the Appropriative Pool Meeting held July 9, 2020
3. Minutes of the Appropriative Pool Special Meeting held July 14, 2020
4. Minutes of the Appropriative Pool Special Meeting held July 20, 2020

B. FINANCIAL REPORTS

Receive and file as presented:

1. Cash Disbursements for the month of June 2020
2. Watermaster VISA Check Detail for the month of June 2020
3. Combining Schedule for the Period July 1, 2019 through June 30, 2020
4. Treasurer's Report of Financial Affairs for the Period June 1, 2020 through June 30, 2020
5. Budget vs. Actual Report for the Period July 1, 2019 through June 30, 2020
6. Cash Disbursements for July 2020 (Information Only)

C. APPLICATION: WATER TRANSACTION

Provide advice and assistance to the Watermaster Board on the proposed transaction:

The purchase of 66.4 acre-feet of water from West End Consolidated Water Company by Golden State Water Company. This purchase is made from West End Consolidated Water Company's Excess Carryover Account. Golden State Water Company is utilizing this transaction to produce its West End Consolidated Water Company shares. Date of application: June 18, 2020.

(0:04:36)

*Motion by Mr. Ron Craig, seconded by Mr. Cris Fealy, and by unanimous vote
Moved to approve the Consent Calendar as presented.*

II. BUSINESS ITEMS**A. OAP LEGAL EXPENSE INCREASE**

Offer advice and assistance to Watermaster on issuing invoices to the Appropriative Pool Parties for the \$167,000 unreimbursed increase, allocated on the basis of the "Ag Pool Reallocation".

(0:42:42) Mr. Kavounas gave a report. A discussion ensued. See reportable action provided under Confidential Session below.

B. FISCAL YEAR 2019/20 BUDGET TRANSFER FORM (T-20-06-01)

Recommend Advisory Committee Approve Fiscal Year 2019/20 Budget Transfer Form (T-20-06-01) as presented.

(0:44:35) Mr. Joswiak gave a report. A discussion ensued. See reportable action provided under Confidential Session below.

C. 2020 OBMP CEQA – INCREASED SCOPE OF WORK (DISCUSSION ONLY)

No recommendation at this time.

(0:05:38) Mr. Tellez Foster gave a report. A discussion ensued. No action was taken on this item.

D. DATA AND MODELING REVIEW OF THE CHINO VALLEY MODEL

Offer advice and assistance toward the proposed process.

(0:55:57) Mr. Tellez Foster gave a report.

E. PROCEDURE AND FEE SCHEDULE FOR REQUESTING INFORMATION AND DOCUMENTS RELATED TO THE CHINO VALLEY MODEL

Offer advice and assistance on the proposed draft procedure.

(0:58:45) Mr. Kavounas gave a report. A discussion ensued.

F. CONSIDERATION OF THE 2020 OPTIMUM BASIN MANAGEMENT PROGRAM UPDATE

Offer advice and assistance to the Watermaster Board.

(1:03:08) Mr. Tellez Foster gave a report.

G. THIRD SUPPLEMENT TO THE OBMPU STATUS REPORT

Offer advice and assistance to the Watermaster Board.

(1:06:20) Mr. Kavounas gave a report. A discussion ensued.

III. REPORTS/UPDATES**A. LEGAL COUNSEL REPORT**

1. San Bernardino County Superior Court Emergency Order
2. July 10, 2020 Hearing
3. September 25, 2020 Hearing
4. Ely 3 Basin Update

(1:10:46) Mr. Herrema gave a report.

B. ENGINEER REPORT

1. Ground-Level Monitoring Committee – Meeting Summary
2. OCWD Monitoring Wells in Prado Basin
3. 97-005 Study Results

(1:15:19) Mr. Malone gave a report.

C. CFO REPORT

None

D. GM REPORT

1. Status report: OAP Contest
2. Watermaster Business Plan
3. Other

(1:22:51) Mr. Kavounas gave a report.

IV. POOL MEMBER COMMENTS

None

V. OTHER BUSINESS

None

VI. CONFIDENTIAL SESSION - POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

Chair Bosler called for a confidential session at 10:25 a.m. to discuss the following:

1. Ag Expenses
2. Ag Contest
3. OBMP IP/PAA and Related Matters

(1:26:08) Confidential session concluded at 11:55 a.m. with the following reportable actions:

Business Item II.A., OAP Legal Expense Increase, and Business Item II.B., Fiscal Year 2019/20 Budget Transfer Form (T-20-06-01):

Consistent with the purpose of the Pools offering advice and assistance to Watermaster pursuant to the Special Joint Pool Committee April 11, 2009 memorandum, because the Agricultural Pool's budget increase remains in dispute and the Appropriative Pool continues to extend invitations to the Ag Pool to meet regarding Ag's expenses, pending a meeting, response to requests for information relating to Ag's expenses or other resolution of the dispute, the Appropriative Pool is opposed to the budget increase and related funds transfer.

ADJOURNMENT

Chair Bosler adjourned the Appropriative Pool meeting at 11:57 a.m.

Secretary: _____

Approved: September 10, 2020

Attachment:

1. 20200813 Appropriative Pool Confidential Session Motion for Business Items II.A. and II.B.

From: John Schatz <jschatz13@cox.net>

Sent: Thursday, August 13, 2020 11:49 PM

To: Anna Nelson <atruongnelson@cbwm.org>; Peter Kavounas <PKavounas@cbwm.org>

Cc: John Bosler <JohnB@cvwdwater.com>; Cris Fealy <cifealy@fontanawater.com>

Subject: Chino Basin; Confidential Session Reportable Action

Consistent with the purpose of the Pools offering advice and assistance to Watermaster pursuant to the Special Joint Pool Committee April 11, 2009 memorandum, because the Agricultural Pool's budget increase remains in dispute and the Appropriative Pool continues to extend invitations to the Ag Pool to meet regarding Ag's expenses, pending a meeting, response to requests for information relating to Ag's expenses or other resolution of the dispute, the Appropriative Pool is opposed to the budget increase and related funds transfer.

EXHIBIT D

CHINO BASIN WATERMASTER

- II. BUSINESS ITEMS
 - A. OAP LEGAL EXPENSE INCREASE



CHINO BASIN WATERMASTER

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

PETER KAVOUNAS, P.E.
General Manager

STAFF REPORT

DATE: August 25, 2020

TO: Watermaster Board

SUBJECT: Overlying (Agricultural) Pool Committee Legal Expense Increase (Business Item II.A.)

SUMMARY:

Issue: The OAP Legal expense for FY 2019/20 has increased beyond the budgeted amount. The OAP formally amended its budget to account for the increase. The OAP has requested Watermaster to pay the invoices from the OAP Special Fund and it has further requested the Appropriate Pool to direct Watermaster to make payment to reimburse the OAP Special Fund pursuant to §5.4(a) of the Peace Agreement, and to provide direction on the method by which to allocate and invoice the reimbursement expense among AP members.

Recommendation: Direct staff to issue invoices to the Appropriate Pool Parties for the \$167,000 unreimbursed increase, allocated on the basis of the "Ag Pool Reallocation".

Financial Impact: The financial impact of the recommendation is to provide funding to Watermaster to pay the associated invoices.

Future Consideration

Watermaster Board – August 25, 2020: Approval [Normal Course of Business]

ACTIONS:

Watermaster Board (Special) – August 4, 2020: Approved by majority vote the motion to "direct Watermaster to offer the proposed assessment of Agricultural expenses set forth in its revised budget to be levied on the members of the Appropriate Pool pursuant to Paragraph 5.4 of the Peace Agreement, to the three Pools and Advisory Committee for their advice and assistance, honoring the intent of the 2009 Joint Pool Committee recommendation. The Board will consider the matter at its special August meeting scheduled for August 25, 2020."

Appropriate Pool – August 13, 2020: The Pool offered no advice or assistance on the subject of issuing invoices allocated based on the "Ag Pool Reallocation" formula; and, pending further actions toward resolution of its concerns regarding the OAP Budget increase, took action to oppose the OAP Budget increase

Agricultural Pool – August 13, 2020: No advice or assistance was offered

Non-Agricultural Pool – August 14, 2020: No advice or assistance was offered

Advisory Committee – August 20, 2020: No advice or assistance was offered

Watermaster Board – August 25, 2020:

Watermaster's function is to administer and enforce provisions of the Judgment and subsequent orders of the Court, and to develop and implement an Optimum Basin Management Program

BACKGROUND

Watermaster's Duty and Party Consent

Pursuant to Court Order, Watermaster is directed to administer the Judgment in accordance with the Peace Agreement. The Peace Agreement, by its terms, binds the Parties to the Agreement to act in conformity with the stated obligations. The Parties contractually agreed and "expressly consent to Watermaster's performance" of enumerated actions. Peace 5.4(a) states that:

During the term of this Agreement, all assessments and expenses of the Agricultural Pool including those of the Agricultural Pool Committee shall be paid by the Appropriative Pool.

Section 5.4(a) further describes the assessments to be covered by this obligation to include but not be limited to OBMP Assessments, Paragraphs 20, 21, 22, 30, 42, 51, 53, and 54, General Administrative Expenses and Special Project Expenses. Based on prior agreements the Appropriative Pool (AP) began paying the Administrative Assessments for the members of the Overlying (Agricultural) Pool (OAP) in FY 1984/85. The prior practice was replaced by §5.4(a) of the Peace Agreement, whereby the AP began to also pay the OAP OBMP Assessment, which it has done since FY 1999/00, immediately following the Court ordering Watermaster to act in accordance with the Peace Agreement.

In each year since, Watermaster calculates the assessments for all three Pools based on their respective prior year production. The Assessments for the OAP have been added to the assessment for the AP and paid for by the AP. The OAP Assessments historically have been allocated among AP Parties on the basis of the allocation of the unused OAP water right, referred to as the "Ag Pool Reallocation" method.

Legal Counsel Expenses

Each Pool has retained legal counsel and the associated expenses are included in the Administration Budget allocated to each Pool respectively. The amount to be included in the annual budget is provided by each Pool directly to Watermaster annually in the preparation of the annual budget.

Watermaster treats the invoices for Legal services provided to each Pool in the same manner. The invoices submitted by Legal Counsel are paid only after they have been reviewed and approved by the respective Pool Chair, who verifies that the work billed is responsive to the Pool's direction. Invoices are not audited or reviewed by Watermaster in any way.

Watermaster has historically collected monies to administer payments by levying assessments for both Administration and, since 2000, OBMP expenses; and in the case of the OAP expenses, the assessments are levied on the AP.

2009 Joint Pool Committee Recommendation

In 2009 a concern arose because of a proposed Budget Transfer that would allocate Special Project expenses to the OAP, which in turn would have to be paid by the AP. In addition, a Budget Amendment was necessary to cover increased Legal expenses by the OAP. The concerns were addressed by discussion among the Pools which resulted in a Joint Pool Committee recommendation.

The recommendation of the Joint Pool Committee was captured in a Memorandum referred to as the "2009 memo" (Attachment 1). The Memorandum states that going forward all OAP expenses need to be budgeted for and presented for Committee review and approval in the same form and fashion as other two Pools. The Memorandum further states that Special Projects related to the physical solution are to be undertaken by Watermaster and not supplanted by the individual Pools. Budget amendment approvals were recommended to address the expenses at issue.

Since that time, the OAP has acted in conformity with the 2009 memo and submitted a budget that has been presented for Committee review and approval in the same form as the other two Pools. In the last four years when the OAP Legal expense budget has been exceeded a budget amendment was prepared to cover the shortfall, averaging approximately \$27k. In practice the shortfall was covered by Advisory

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and to develop and implement an Optimum Basin Management Program*

Committee approval of Budget Amendment/Transfer from other accounts or from the Admin Reserve. This practice is in line with 2009 memo that provides for Pool and Advisory Committee review prior to Watermaster levying the assessment.

DISCUSSION

The OAP Legal expense account was on track through March 2020; the April invoice however was larger than the anticipated 1/12th of the annual budget and depleted the balance of the full year's budget; the OAP Chair and Vice Chair were immediately notified that Watermaster did not have the ability to pay any further invoices until the budget was amended and additional funds were made available. On June 30, 2020 the OAP approved a budget increase for FY 2019/20 to cover the outstanding May and June invoices; the OAP also reduced budget for the account that tracks the TMDL study. The \$167,000 difference between the outstanding invoices and the reduction in the TMDL account needs to be added to the FY 2019/20 budget for Watermaster to be allowed to reimburse the OAP for their use of reserves to pay the outstanding invoices.

The OAP prepared a FY 2019/20 budget and approved a Budget Amendment.

Watermaster considered a Budget Amendment/Transfer as a method that had been used in the past to authorize the payment. A Budget Amendment/Transfer is problematic this year: first, there are not enough unspent funds in other Admin accounts to transfer; second, the amount is the same order of magnitude as the remaining Admin Reserve balance and a transfer from Admin Reserve would wipe out the reserve (and would have to be refilled at assessment time); and third, Admin accounts are funded based on one formula (Production), whereas OAP expenses are covered from money collected based on "Ag Pool Reallocation" formula, resulting in an inconsistency among Appropriative Pool parties which would be substantial in light of the necessary transfer amount.

As an alternative, Watermaster has identified direct assessment of AP parties as a preferred method to collect the funds for the OAP Legal expense increase. During the July meetings the AP was asked its preference for how the invoicing should be allocated among its members, and on July 31, the AP responded without providing any direction. The matter was presented to the Watermaster Board for consideration during a Special Meeting on August 4, 2020. The Board provided direction to offer the proposed assessment to the Pool and Advisory Committees for their advice and assistance as they had not yet had the opportunity to do so as contemplated by the 2009 recommendation. In the interim, the OAP has requested Watermaster to pay the amount from its reserves and the levy on the AP parties will be to reimburse the OAP.

The topic was discussed by the three Pool Committees at their August 2020 regular meetings. Following its August 13, 2020 meeting the AP sent an email (Attachment 2) to Watermaster with the related action. Additional material was distributed in advance of the Pool Committee meetings electronically and is attached here (Attachments 3-6). The OAP and ONAP offered no advice or assistance. The topic was also discussed at the Advisory Committee meeting, and no advice or assistance was offered to Watermaster.

ATTACHMENTS

1. April 11, 2009 Memorandum Subject "Special Joint Pool Committee – Pool Dispute Resolution"
2. August 13, 2020 Email from AP to Watermaster
3. Minutes of the Appropriative Pool Committee June 7, 1988
4. Notice of Default by the Appropriative Pool and Demand to Cure Default within 90 days (January 23, 2009)
5. Watermaster Staff Report titled "Ag Pool's Fund Balance" (July 26, 2011)
6. Notice of Default by the Appropriative Pool and Demand to Cure Default within 90 days (August 6, 2020)

m e m o r a n d u m

April 11, 2009

TO: Ken Willis, Chairman
Chino Basin Watermaster

FROM: Bob Feenstra, Agricultural Pool Chairman
Ken Jeske, Appropriative Pool Chairman
Bob Bowcock, Overlying-Non Agricultural Pool Chairman

RE: Special Joint Pool Committee
Pool Dispute Resolution.

A budget transfer request of \$21,000.00 has been made by staff to pay for the Regional Water Quality Control Board Basin Plan Amendment for Pathogen Total Maximum Daily Loads (TMDL) for the Middle Santa Ana River Watershed Pathogen TMDL for the Agricultural Pool. The Chino Basin Watermaster Agricultural Pool participates collectively in a task force administered by the Santa Ana Watershed Project Authority (SAWPA).

The Special Joint Pool Committee has resolved the budget transfer should be approved by the Watermaster and requests that Watermaster pay the invoice presented by the SAWPA Task Force.

As part of the resolution process, the Special Joint Pool Committee would like Watermaster to include in its motion to approve the above referenced budget transfer that the Agricultural Pool agrees to participate in the regular Watermaster Budget Process and present an annual budget in the same form and fashion as the other Pools. This will include: legal fees, consultant fees, meeting fees and projects. All of the budgets will be reviewed through the Pool process, approved and submitted by the Advisory Committee to the Watermaster.

Only Watermaster is authorized to undertake Special Project expense under Judgment Section 54 and Section 27. Such expense can only be allocated to a specific Pool if the Pool agrees or the court so orders, but this is not an authorization for the Pool to undertake such expense on its own initiative. (See e.g. Judgment section 54 and Peace Agreement section 5.4(a).) Under Section 38 (a) Pool Committees are limited to "developing policy recommendations for administration of its particular Pool." Special Project expense necessarily must be part of the Physical Solution which is under the control of the Court and its Court appointed Watermaster. While the Pool Committees are there to provide advice and assistance to Watermaster they may not supplant Watermaster's Physical Solution authority under Section 41.

Further, the Special Joint Pool Committee would like to notify Watermaster that additional legal fees have been expended which will require a budget transfer before the end of this fiscal year. Staff will be preparing a legal fee Budget Transfer in May for both the Watermaster and the Agricultural Pool, as recommended by the Special Joint Pool Committee. Presently, the estimate for the Agricultural Pool Budget Transfer for legal fees is approximately \$30,000.00.

From: John Schatz <jschatz13@cox.net>
Sent: Thursday, August 13, 2020 11:49 PM
To: Anna Nelson; Peter Kavounas
Cc: John Bosler; Cris Fealy
Subject: Chino Basin; Confidential Session Reportable Action

Consistent with the purpose of the Pools offering advice and assistance to Watermaster pursuant to the Special Joint Pool Committee April 11, 2009 memorandum, because the Agricultural Pool's budget increase remains in dispute and the Appropriative Pool continues to extend invitations to the Ag Pool to meet regarding Ag's expenses, pending a meeting, response to requests for information relating to Ag's expenses or other resolution of the dispute, the Appropriative Pool is opposed to the budget increase and related funds transfer.

MINUTES
OF
APPROPRIATIVE POOL COMMITTEE MEETING
JUNE 7, 1988

A meeting of the Appropriative Pool Committee was held June 6, 1988 at 12:00 noon in the Chino Basin Municipal Water District Board Room.

Pool Members Present:

Ray Wellington, Chairman
Jim Lundie
Lloyd Michael
Mike Teal
Hooite Rugge
John Schatz
Jim Ashcraft
Ira Pace
Bill Stafford
M. D. Funk
Lee Travers
Larry Dilley
Harold Andersen
J. Arnold Rodriguez
Thomas M. Rose

City of Chino
City of Pomona
Cucamonga Co. Water District
City of Ontario
Fontana Union W.C.
Jurupa Comm. Svcs. Dist.
City of Norco
West S.Bdno. Co. Water Dist.
Marygold M.W.C.
Marygold M.W.C.
City of Upland
City of Upland
Monte Vista Irrigation Co.
Santa Ana River Water Co.
S.B.Co. WW Dist. #8

Watermaster and CBMWD Staff Present:

Don Peters
Alice Lichti
Jerry Busch
Thomas J. Homan
Mary Blasingame

Chief, Watermaster Services
Controller, CBMWD
Asst. Controller, CBMWD
Gen. Mgr., CBMWD
Recording Secretary

Others Present:

Ed Dubiel
Pam Cvitan
Guido Smith
Tom Carnesi
Herbert C. Hall

Attorney General's Office
Attorney General's Office
Watermaster Legal Counsel
Agricultural Pool
Agricultural Pool

Chairman Wellington called the meeting to order and a quorum was declared present.

1. Minutes

By motion and unanimous vote, the Minutes of March 10, 1988 were approved as submitted.

2. Treasurer's Report of Financial Affairs

Mrs. Lichti presented and reviewed the Treasurer's Report of Financial Affairs for the period ending April 30, 1988. There being no discussion, by motion and unanimous vote:

(the Treasurer's Report of Financial Affairs for the period ending April 30, 1988 was approved as presented).

3. Agricultural Pool Transfers

Chief Peters gave a brief review of the actions taken to date regarding the allocation of unallocated safe yield transfers from the Agricultural Pool to the Appropriative Pool. Mr. Peters referenced the March 27, 1988 opinion letter rendered by Attorney Guido Smith and the method of allocation proposed by the City of Norco. Mr. Peters further stated it was the Committee's decision to have an Ad Hoc Committee study the matter and return with a recommendation as to how the allocations should be accomplished. It was the consensus of the Ad Hoc Committee that allocations be made pursuant to the spread previously used, i.e., percentage of share of operating safe yield within the Pool.

Mr. Ashcraft distributed and reviewed his June 6, 1988 letter to the members of the Appropriative Pool Committee, and a letter prepared by Attorney Susan M. Trager setting forth the City of Norco's concerns with the allocation procedure. He also distributed Mr. Guido Smith's March 27, 1988 opinion letter. Mr. Ashcraft stated it was the opinion of the City of Norco and their legal counsel that several items within the Judgment can be used to rectify the water quality problem that could be created by spreading the unallocated safe yield transfers, that the Socio Economic Study would address the problem; the Optimum Basin Management Plan would put water quantity with water quality and address them equally; and the Facilities Equity Assessment whereby better quality water could be introduced into the basin and reduce some water quality problems. Mr. Ashcraft suggested studies on all three items should be completed before action is taken to spread the 78,489 acre feet of agricultural transfer water. Mr. Ashcraft further suggested a portion of the 78,489 acre feet be used to offset the replenishment requirement and the balance be held until the studies are completed and there is agreement that the water quality impacts to the basin are met. Mr. Wellington encouraged the Committee members to review the documents distributed by Mr. Ashcraft. Discussion ensued on the matter and it was stated that factual background is needed to substantiate an opinion and the Committee should keep in mind possible solutions to the quantity/quality problems that will benefit all parties. After discussion, the following motion was made by Mr. Teal, seconded by Mr. Funk:

MOVED, the Appropriative Pool Committee accept the recommendation of the Ad Hoc Committee and spread the unallocated safe yield water transfer from the Agricultural Pool to the Appropriative Pool pursuant to the percentage of operating safe yield within the Appropriative Pool.

VOLUME VOTE:

AYES: City of Ontario, City of Pomona, City of Upland, Cucamonga County Water District, West San Bernardino County Water District, Fontana Union Water Company, Marygold Mutual Water Company, Monte Vista Irrigation District, Santa Antonio Water Company, Santa Ana River Water Company, West End Consolidated Water Company.

NOES: City of Chino, City of Norco, Jurupa Community Services District, San Bernardino County Waterworks District No. 8

ABSENT: Monte Vista Water District, Mutual Water District of Glen Avon Heights, Southern California Water Company

Motion carried by majority vote.

4. Request for Support

Chief Peters presented the March 10, 1988 letter from the Overlying (Agricultural) Pool requesting support from the Appropriative Pool in the amount equal to the Overlying (Agricultural) Pool's 1988-89 Administrative assessment for unpumped Agricultural water transferred to the Appropriative Pool following this 1987-88 production year. Mr. Peters confirmed the intent of the action as follows:

1. Appropriative Pool picks up all Agricultural Pool Administrative Expenses, including Special Project allocations.
2. Agricultural Pool will transfer all pool administrative reserve to the Appropriative Pool effective July 1, 1988.
3. Agricultural Pool will meet formally once a year to elect officers.
4. Agricultural Pool members will receive copies of Appropriative Pool Agendas and may attend Appropriative Pool meetings (with no voting rights) if item on agenda(s) are of interest.

5. Agricultural Pool Members (except for State of California representative) will be reimbursed at \$25/meeting for each Appropriative or Agricultural Pool meeting attended.
6. Annual Administrative Assessments will no longer be issued to Agricultural Pool producers.
7. Agricultural Pool intends to sell its 2,000 acre feet of water in storage and funds received will be held and invested by Watermaster Treasurer for future use to be determined by the Agricultural Pool members.

After brief discussion on the matter, by motion and unanimous vote:

(the Request for Support as requested by the Overlying (Agricultural) Pool be accepted by the Appropriative Pool Committee.)

5. Water Spreading Agreement

Chief Peters presented the water spreading agreement between the San Bernardino County Flood Control District and Chino Basin Watermaster and stated the existing three year agreement terminates June 30, 1988. Mr. Peters stated the agreement had been reviewed and approved by Watermaster legal counsel. By motion and unanimous vote:

(the water spreading agreement between San Bernardino County Flood Control District and Chino Basin Watermaster was approved as presented.)

6. Personal Computer Purchase

Chief Peters presented and reviewed his June 6, 1988 letter requesting authorization to purchase a personal computer and associated equipment for exclusive use in the Chino Basin Watermaster program for a total cost of \$4,450.00 including sales tax. Mr. Peters noted since 1983 Watermaster has utilized the District's personal computer for computing and spread sheet preparation. Mr. Peters continued by stating the increased workload being experienced by the Watermaster program and the increasingly limited time available on the District's personal computer justifies a personal computer for the Watermaster program. Mr. Peters stated Section 5(B), Paragraph 19 of the Judgment permits the acquisition of the equipment and noted sufficient funds for the purchase were available in the SB-222 fund. Mr. Peters further requested he be authorized to attend a 2-1/2 day personal computer school and the \$250 registration fee be taken from the Watermaster Educational Fund Account. Discussion ensued on the matter and it was suggested in lieu of the Watermaster owning the equipment, the equipment be purchased by Chino Basin Municipal Water

District and leased to the Chino Basin Watermaster. The Committee concurred with the suggestion. Following discussion, there was no objection by the Committee to pursue the acquisition of the personal computer as discussed and authorize attendance at the personal computer school as requested.

7. Sale of Water

Chief Peters presented a Notice of Sale of 2,000 acre feet of water in storage from the Overlying (Agricultural) Pool to the Cucamonga County Water District. Mr. Peters stated the Notice was dated March 17, 1988 and was presented as an information item with no action required.

8. Ad Hoc Committee

Chief Peters, at the request of Mike Teal, presented for discussion the possibility of forming an Ad Hoc Committee to deal with the water exchange program between Watermaster, Metropolitan Water District and the Appropriative Pool members who are also members of the Water Facilities Authority. Discussion ensued on the matter and it was the consensus of the Committee to reactivate the advisory level Ad Hoc Committee formed at the onset of the Conjunctive Use Study and include all parties that want to participate on the Committee. The State Attorney General's Office and the City of Norco requested to be included. After discussion, by motion and unanimous vote:

(it was recommended the Advisory Committee reactivate the advisory committee level ad hoc committee to deal with the water exchange program between Watermaster, Metropolitan Water District and the Appropriative Pool members who are also members of the Water Facilities Authority and set a meeting date of the same.)

9. Staff Report

Chief Peters presented and reviewed the final replenishment schedule for 1987-88 and noted the 15,635.9 acre foot replenishment requirement had been satisfied by taking delivery of 2,493.7 acre feet of State Project Water and purchasing 13,142.2 acre feet from Cyclic Storage.

Peters gave a status report on the matter pending with the County of Riverside concerning the two regional park wells and stated Attorney Smith had transmitted a letter to Riverside County Counsel requesting an answer to the matter by June 30, 1988 to avoid pursuance of the pending litigation.

10. Other Business

Chief Peters presented a Notice of Lease of 1,000 acre feet of corresponding share of initial operating safe yield from Monte Vista Irrigation District to Cucamonga County Water District covering the period July 1, 1987 through June 30, 1988. By motion and unanimous vote:

(the lease agreement between Monte Vista Irrigation District and Cucamonga County Water District was approved as presented.)

Lloyd Michael initiated discussion on the need to develop an agricultural reclamation program where water in excess of the mandated amount to be delivered to Orange County would be delivered to the agriculturalists and the benefits received by the Appropriative Pool through decreased pumping. Mr. Michael emphasized the need to study methods to get into a full reclamation program and curtail the delivery of excessive amounts of water to Orange County. Mr. Michael stated he was going to address the matter with the Regional Technical Committee. During discussion it was noted that facts and figures are required to make decisions on water management and water quality and it might be the appropriate time for the Pool committees to encourage the Advisory Committee to develop a plan of action. Recognizing the Regional Sewer Program's part in the reclamation, Tom Homan outlined the current studies underway through SAWPA, SARDA and CBMWD dealing with nitrates and ammonias in the groundwater and river, respectively, and other items.

Chairman Wellington noted the various pieces of information needed to be brought together and the scope of work defined. Mr. Dubiel suggested the committee members bring points they would like addressed to the Advisory Committee meeting. Mr. Ashcraft suggested an advisory level ad hoc task force committee be formed to consider a scope of work to address water quality issues, reclamation, and items in the Judgment, i.e., socio economic study, optimum basin management plan, and facility equities assessment which could have an impact on the reclamation plan. Mr. Ashcraft also suggested assistance from SAWPA, Western, CBMWD, and others who could contribute information relative to reclamation. After discussion, the following motion was made by Mr. Ashcraft, seconded by Mr. Teal:

(MOVED, an advisory level ad hoc task force committee for formed to consider a scope of work to address water quality issues, reclamation and items in the Judgment as suggested.)

Motion carried by unanimous vote.

There being no further business to discuss, the meeting was adjourned at 2:00 p.m.

Secretary

**NOTICE OF DEFAULT BY THE APPROPRIATIVE POOL
AND DEMAND TO CURE DEFAULT WITHIN 90 DAYS**

**TO: MEMBERS OF THE APPROPRIATIVE POOL
OF THE CHINO BASIN**

PLEASE TAKE NOTICE that your failure to agree to fund the farming portion of the Middle Santa Ana Watershed TMDL Study - Budget Transfer Request by the Agricultural Pool of the Chino Basin, in the amount of \$21,000 on January 22, 2009, constitutes a breach of paragraph 5.4(a) of the Peace Agreement dated June 29, 2000. Paragraph 5.4(a) of the Peace Agreement reads in relevant part as follows:

“During the term of this Agreement, all assessments and expenses of the Agricultural Pool Committee shall be paid by the Appropriative Pool. This includes but is not limited to OBMP Assessments, assessments pursuant to Paragraphs 20, 21, 22, 30, 42, 51, 53, 54 both General Administrative Expenses and Special Project Expenses, 55, and Exhibit F (Overlying Agricultural Pool Plan) of the Judgment”

Furthermore, section 4.1(b) of Article IV of the Rules and Regulations, entitled Assessments, Reimbursements and Credits reads in relevant part as follows:

“Special Project Expenses shall consist of special engineering, economic or other studies, litigation expense, meter testing or major operating expenses. . . .”

As a result of the above breach, the Agricultural Pool of the Chino Basin has been required to fund the TMDL Study out of its own funds. If the Appropriate Pool does not reimburse the Agricultural Pool for this expense, within 90 days from the date of service of this Notice of Default (as provided for in Paragraph 9.1(a) of the Peace Agreement), the Agricultural Pool intends to seek the appropriate remedy upon default as contained in Paragraph 9.2(a) of the Peace Agreement.

DATED: January 23, 2009



Steven G. Lee
Legal Counsel for the
Agricultural Committee
Of The Chino Basin



CHINO BASIN WATERMASTER

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Tel: 909.484.3888 Fax: 909.484.3890 www.cbwm.org

DESI ALVAREZ, PE
Chief Executive Officer

STAFF REPORT

DATE: July 26, 2011
TO: Agricultural Pool Members
SUBJECT: Agricultural Pool's Fund Balance

SUMMARY

Issue – Payment for the Middle Santa Ana River Pathogen TMDL Task Force study of \$13,474.00 and the Agricultural Pool Member Meeting Compensation amount of \$8,000.00 was charged against the Agricultural Pool's Fund Balance during FY 2008/2009.

Recommendations – After a detailed review of the Agricultural Fund Balance from the period November 2008 through March 2009, staff does not recommend the Fund Balance as of March 2009 be changed or adjusted.

Fiscal Impact – The Agricultural Pool's Fund Balance is correct and no changes are required.

DISCUSSION

BACKGROUND:

In early July 2011, Joseph Joswiak, CFO for Chino Basin Watermaster, was contacted by Mr. Bob Feenstra, Chairman of the Agricultural Pool, and asked to provide a balance of the Agricultural Pool's Fund Balance for the past several years. During the telephone conversation Joseph stated that there was an excel worksheet that had been developed several years ago by the previous CFO, Sheri Rojo. Joseph stated that he would email the updated worksheet to Mr. Feenstra. On Wednesday, July 6, 2011 the worksheet, along with several other May 31, 2011 financial reports were emailed to Mr. Feenstra.

Upon receiving the documents, Mr. Feenstra contact Joseph and asked for specific clarification on the changes in the Agricultural Pool's Fund Balance between the months of September 2008 through March 2009. Joseph responded to Mr. Feenstra's questions via email on July 13, 2011.

RECONCILIATION OF QUESTIONABLE AMOUNT(S)

During the Agricultural Pool meeting of July 14, 2011, Mr. Gene Koopman requested additional clarification on two specific invoices/amounts that Joseph was previously unable to clearly substantiate with invoice documentation. The invoice amounts were \$16,506.00 and \$13,474.00. During the meeting, Joseph stated that he was still investigating the issues and would continue to search the records from 2008 and 2009 for documentation.

Later in the week after discussing the issue with the Watermaster accounting and administrative staff and researching past meeting minutes, it was determined that the invoices had to do with activity from FY 2007/2008 and FY 2008/2009 with regards to the Middle Santa Ana River Pathogen TMDL Task Force. The following information is submitted:

1. Invoice number 8500, dated February 20, 2008 from the Santa Ana Watershed Project Authority for \$3,031.50 (see attached invoice)
 - a. Posted to the accounting records as of October 30, 2008 (FY 2008/2009).
 - b. Invoice was Watermaster's 50% portion (the other 50% was covered by the Milk Producers Council) of the "billing for participation in the Middle Santa Ana River Pathogen TMDL Task Force.
 - c. Invoice was coded to account general ledger 6906.6 (OBMP Engineering Services).
 - d. Paid on November 7, 2008 by check number 12808.
 - e. During this time period, the only approval signature required on the invoice was Sheri Rojo, who did approve payment for this invoice.
2. Invoice number 8505, dated April 4, 2008 from the Santa Ana Watershed Project Authority for \$13,474.00 (see attached invoice)
 - a. Posted to the accounting records as of June 30, 2008 (FY 2007/2008).
 - b. Invoice was Watermaster's 50% portion (the other 50% was covered by the Milk Producers Council) of the "share of costs to development project deliverables on behalf of Agricultural Operators for the Middle Santa Ana River Pathogen TMDL – Best Management Plan Implementation Study and to address compliance with the Middle Santa Ana River Pathogen TMDL's.
 - c. Invoice was coded to account general ledger 6906.6 (OBMP Engineering Services).
 - d. Paid on August 7, 2008 by check number 12562.
 - e. During this time period, the only approval signature required on the invoice was Sheri Rojo, who did approve payment for this invoice.
 - f. Attached to the invoice documentation is the Ag Pool meeting minutes from August 21, 2007 that state "the Agricultural Pool to pay for the farming portion"

The original amount (which first appeared on the Fund Balance Reports in November 2008) of \$16,506.00 was a combination of the invoices \$13,474.00 + \$3,031.50 = \$16,505.50 rounded to \$16,506.00. The amount of \$16,506.00 was a reduction to the Agricultural Pool's Fund Balance.

In March 2009, the dollar amount of \$16,506.00 was adjusted by the amount of \$3,031.50 to a new amount of \$13,474.00 (\$16,506.00 - \$3,031.50 = \$13,474.00). The net effect was an increase of \$3,031.50 to the Agricultural Pool's Fund Balance.

AGRICULTURAL POOL MEMBER COMPENSATION

Prior to July 2009, the Agricultural Pool did fund a portion of their meeting expenses from their own Agricultural Fund. According to the Agricultural Pool expense reports, The Agricultural Pool members... "shall be compensated for regular and special committee meetings of the Agricultural Pool, Appropriative Pool, Advisory Committee and Watermaster Board; and for subcommittees and workshops in the amount of \$125.00 per meeting not to exceed \$250 per day. \$25.00 per meeting will be compensated from the established compensation account until the maximum annual amount of \$300 is reached. The remaining \$100 per meeting will come from the Overlying (Agricultural) Pool interest account. At such time as the \$300 annual amount is reached compensation from the accrued interest account will be \$125." When Janine codes the expense of \$125 in the accounting system, \$100 is coded to account 8470 and the remaining \$25 is coded to account 8411. Prior to July 2009, the expenses in account 8470 were deducted from the Agricultural Pool balance and in fact, paid for by the Agricultural Pool. The remaining \$25 was paid for by the Appropriative Pool. During FY 2008/2009 the amount of \$8,000 was charged against the Agricultural Pool's Fund balance with regards to account 8470.

In April 2009, the Special Joint Pool Committee (Pool Dispute Resolution) of Bob Feenstra, Ken Jeske and Bob Bowcock send a memo to Ken Willis regarding a budget amendment of \$21,000 for the special TMDL project. During these discussions, according to Sheri Rojo, the discussions about "All means All" took place. It was right after this

timeframe that Sheri Rojo stopped charging the majority of the meeting compensation against the Agricultural Pool Fund and started charging "ALL" Agricultural Pool expenses against the Appropriative Pool Fund.

According to the financial records, starting July 2009, the practice of charging the amounts in account 8470 against the Agricultural Pool Fund balance stopped. There were no longer any adjustments against the Agricultural Pool Fund balance, and in fact, the Appropriative Pool started to pay "ALL" of the Agricultural Pool expenses, including the category 8470.

AGRICULTURAL POOL MINUTES:

From the documentation provided, it appears the intent was for the Agricultural Pool's Fund Balance to pay for invoice number 8505 in the amount of \$13,474.00 as described in the Staff Report's dated August 21, 2007 and October 21, 2008 (see attached).

I have provided documentation (listed below) from the meeting minutes to assist in detailing the intent of the parties with regards to the Middle Santa Ana River Pathogen TMDL Task Force.

Agricultural Pool Minutes of October 21, 2008:

TMDL STUDY

Mr. Feenstra stated he has been in consultation with Rob Vanden Heuvel regarding the TMDL Study and has also received some documentation from Geoffrey Vanden Heuvel regarding shared expense. Mr. Manning stated this item comes before this committee today based upon the continuation of Participation in a study that the Agricultural Pool began last year. Mr. Manning noted the memorandum written by Rob Vanden Heuvel to the Agricultural Pool chair and vice-chair regarding this study. Staff is seeking a motion regarding the expense that the Agricultural Pool volunteered to participate in last year and whether this committee wants to still participate in the study. Mr. Manning stated the Agricultural Pool does have the funds in the accounts to cover the amount that is being requested. Mr. Rob Vanden Heuvel stated last year's authorization up to \$20,000 dollars which was applied to three different causes. What is before this committee today is the actual implementation and a portion for continuance, for another year, in the larger stakeholder group. In discussions with Ms. Rojo all monies set aside for this last year project was not fully spent; however, Watermaster's policy is to not carry balances forward and would require a new authorization for the full amount in the amount of \$21,000.00. Mr. Geoff Vanden Heuvel offered comment on the Executive Summary received on this project as to what has been done thus far and preliminary findings on their sampling. A discussion regarding this matter ensued. It was noted by the committee members this needs to be a special projects item and come from the Watermaster general budget. Mr. Manning stated Watermaster does not have this money budgeted and this would have to be presented as a budget amendment through the Watermaster process for approval. Mr. Manning suggested a representative from the Agricultural Pool attend the other meetings to present their position on this item in November.

Motion by Koopman, second by Mackamul, and by majority vote – Jennifer Novak abstained
Moved to approve the continuation of the TMDL Study in the amount of \$21,000.00 and to include the costs be paid as a "Special Agricultural Pool Project" from the current Watermaster budget, as presented

Agricultural Pool Minutes of November 18, 2008:

Funding of the Farming Portion of the Middle Santa Ana Watershed TMDL Study – Budget Transfer Request for \$21,000

Mr. Manning stated this is an Agricultural Pool request for the farming portion of the TMDL Study and administrative fees associated with this study. This was brought forward last month to this committee and it was decided at that meeting to seek payment for this item through the Watermaster process as a special project. This will require Watermaster staff to move monies around to cover the \$21,000 since this was not a budgeted cost. A discussion regarding special projects ensued and Mr. Lee offered comment on what special projects is described as in the Judgment. Mr. Vanden Heuvel offered comment on the TMDL study. A discussion regarding this matter ensued.

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

Moved to approve budget transfer from OPMP & Water Quality Committee Expense to Recharge Master Plan and Watermaster Legal Counsel for \$413,750.00 and the funding of the farming portion of the Middle Santa Ana Watershed TMDL Study for \$21,000.00, as presented

Agricultural Pool Meeting of December 16, 2008:

Added Discussion Item:

Mr. Vanden Heuvel stated at the November Appropriative and Non-Agricultural Pool meeting those committee members requested some additional information from legal counsel and Watermaster staff to further investigate the request for the TMDL study as a special project forwarded from the Agricultural Pool. Mr. Vanden Heuvel also stated those pools were looking for a report on the Agricultural Pool's history of funds. Mr. Manning stated he would cover a portion of Mr. Vanden Heuvel's question under the Financial Update on the agenda and that would be the history of funds. A discussion regarding this issue ensued. Mr. Manning stated if this was an urgent item for the Agricultural Pool then this committee could make a motion to take the funds from the Agricultural Pool monies and seek reimbursement from the Appropriative Pool in the future. A discussion regarding special projects ensued.

WATERMASTER FINANCIAL REPORT

1. Accounting of Agricultural Pool Fund Balance

Mr. Manning gave the Agricultural Pool Fund Analysis presentation. Mr. Manning stated at the Ag Pool meeting of June 16, 1988, "the pool members ratified an agreement with the Appropriative Pool to assume all future Ag Pool administrative expenses, including special project allocations, in return for which the Ag Pool transferred all pool administrative reserves at June 30, 1988 (\$59,852) to the Appropriative Pool effective July 1, 1988". In June, 1988, the Ag Pool sold 2,000 acre-feet of water in storage to Cucamonga County Water District. "Funds from this sale are to be held and invested by the Watermaster for future use as determined by the Ag Pool members". The 2,000 acre-feet of water was purchased in 1978 by the Ag Pool, in anticipation of having a future replenishment obligation. \$246,000 earned interest for the past 19 years and the Ag pool "extra compensation" was taken from these funds beginning in 2001. Various "Mutual Agency Project Costs" have been paid out of the Ag pool funds on six different occasions since 1998 in amounts ranging from \$3,000 - \$20,000/year. The Ag Pool fund balance is \$475,604 as of 6/30/2008. A discussion regarding the presentation ensued and it was noted the Agricultural Pool requested a copy of the given presentation.

Agricultural Pool Meeting on January 20, 2009:

Chair Feenstra closed the open Annual Agricultural Pool meeting to go into closed session at 10:22 a.m.

A lengthy discussion regarding Special Projects and the TMDL Study was noted to the recording secretary by Counsel Fife and Mr. Manning.

*Motion #1 by Koopman, second by Vanden Heuvel, and by majority vote – one abstention by Novak
Moved to approve authorization to pay \$21,000 towards the TMDL Study from the Agricultural Pool funds if approval is not given at the next Watermaster Board meeting, as presented*

Advisory Committee Meeting on January 22, 2009:

BUSINESS ITEM

A. BUDGET TRANSFER

Ms. Rojo stated this item pertains to a TMDL Study along the Santa Ana River and there was a request made by the Agricultural Pool to fund the farming portion of this study. This item has been through the Watermaster process and at the last Advisory Committee meeting in December, 2008, that committee requested this item be pulled from the agenda for further consideration. This item is now once again before this committee for reconsideration. Chair Koopman made a motion to approve the Budget Transfer to fund the farming portion of the TMDL Study for \$21,000. Mr. Jeske made reference to the last Advisory Committee meeting when this item was discussed at length and noted options were brought forward through the Pool process; however, they were not approved. Having these options brought forth to the parties showed there was good faith efforts put forth to negotiate this item. Mr. Jeske stated he would like to see this put off for another month to allow the Appropriative Pool try to rework and restructure some language that might assist in moving this forward. Mr.

DeLoach stated the Appropriative Pool members were just notified a few days ago that the Agricultural Pool took action to decline the offer to work out this process; Mr. DeLoach noted his displeasure in the action the Agricultural Pool took. Mr. DeLoach agreed with Mr. Jeske in wanting to work on defining improved language for this broad term of Special Projects and to provide clarification on how to proceed with this type of request in the future. A lengthy discussion regarding this matter, what the TMDL study is, and what a Special Project is ensued. Mr. Bowcock stated he doesn't think the attorneys should define what special projects are. A discussion ensued with regard to this item including how this vote will be taken to the Watermaster Board meeting later today.

Motion by Koopman, to approve the budget transfer to fund the farming portion of the TMDL study for \$21,000 second by Pierson

Motion failed to pass by a majority no vote, the Non-Agricultural Pool concurred with a no vote, as presented

Board Meeting on January 22, 2009:

BUSINESS ITEM

A. BUDGET TRANSFER

Mr. Manning offered background on this item which has been on a previous agenda. Mr. Manning stated this item comes to you with an 80% no vote from the Advisory Committee meeting this morning; the Agricultural Pool representatives voted yes. This recommendation of a no vote from the Advisory Committee means the Board has no position to vote on this item. Chair Willis stated that as noticed in the Watermaster by-laws even if this committee voted unanimously the item would not stand. Chair Willis stated with this being brought forward as it is, this item will be removed. Mr. Bowcock stated he did talk about the item at length at the Advisory Committee meeting this morning and in listening to the Appropriators, there were some very good points brought up. Mr. Bowcock noted he personally witnessed no less than three attempts to reach attempts to reach out to the Agricultural Pool to make this issue go away. Mr. Bowcock commented on how unfortunate this situation is to have caused such a rift between the Pools, because there are solutions out there. Mr. Bowcock urged the participants in all Pools to work through this sad affair quickly. Chair Willis asked Mr. Bowcock and Mr. Vanden Heuvel to be on a committee to try and resolve this situation and to have a meeting take place here at the Watermaster office with the parties involved to come up with a solution. Both Mr. Bowcock and Mr. Vanden Heuvel stated they would work on getting this resolved.

Board Meeting on April 23, 2009:

BUSINESS ITEM

A. BUDGET TRANSFER T-09-04-01

Mr. Manning stated this item comes before this committee with a unanimous vote from all the Pools and the Advisory Committee. Mr. Manning stated this is a budget transfer request for moving funds into the budget for the farming portion of the TMDL Study. Several discussions have taken place over matter for the last few months and staff is recommending approval for this budget transfer. Mr. Bowcock stated the terms of this Pool dispute resolution are written out in a submitted memorandum developed by the Special Joint Pool Committee, dated April 11, 2009, and submitted to the Board of Directors. Mr. Feenstra thanked Mr. Bowcock for his efforts to schedule and attend meetings regarding this matter.

Motion by Camacho, second by Bowcock, and by unanimous vote

Moved to approve budget transfer T-09-04-01 for the funding of the farming portion of the middle Santa Ana Watershed TMDL Study and to included the terms of agreement memorandum dated April 11, 2009

AFTER MARCH 2009

After March 2009, the only change to the Agricultural Pool Fund Balance is the addition of quarterly interest income from the Pool's "prorated" portion of the quarterly interest income earned on the LAIF balance.



Egoscue Law Group, Inc.

**NOTICE OF DEFAULT BY THE APPROPRIATIVE POOL
AND DEMAND TO CURE DEFAULT WITHIN 90 DAYS**

TO: MEMBERS OF THE CHINO BASIN APPROPRIATIVE POOL

Please take notice that your failure to agree to pay the Overlying (Agricultural) Pool Committee (Agricultural Pool) expenses of \$165,694.75 to cover the May and June 2020 legal invoices constitutes a breach of paragraph 5.4(a) of the Peace Agreement dated June 29, 2000. Paragraph 5.4(a) of the Peace Agreement reads in relevant part as follows:

During the term of this Agreement, all assessments and expenses of the Agricultural Pool including those of the Agricultural Pool Committee shall be paid by the Appropriative Pool. This includes but is not limited to OBMP Assessments, assessments pursuant to Paragraphs 20, 21, 22, 30, 42, 51, 53, 54 both General Administrative Expenses and Special Project Expenses, 55, and Exhibit F (Overlying Agricultural Pool Pooling Plan) of the Judgment...

Chino Basin Watermaster Rules and Regulations Section 4.6 incorporates the Peace Agreement provision providing that all assessments and expenses of the Agricultural Pool be paid for by the Appropriative Pool during the term of the Peace Agreement. Pursuant to Section 4.6, the Watermaster had and has the ability to pay the outstanding Agricultural Pool Legal Budget balance. The delay in payment is prejudicial to the Agricultural Pool, and Watermaster's failure to issue a timely payment has resulted in damages.

Accordingly, the Agricultural Pool formally demands that the Appropriative Pool immediately direct the Watermaster to make payment of the Agricultural Pool expenses of \$165,694.75 to cover May and June 2020 invoices with direction on the method by which to allocate and invoice the payment among the members of the Appropriative Pool.

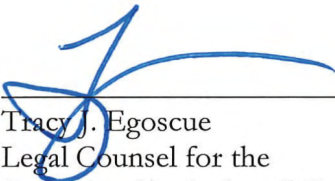
As a result of the above breach, the Agricultural Pool will be required to fund the Legal Budget remaining balance to cover May and June 2020 invoices. If the Appropriative Pool does not direct Watermaster to make the above payment or reimburse the Agricultural Pool for this expense within 90 days from the date of service of this Notice of Default (as provided for in Paragraph 9.1(a) of the Peace Agreement), the Agricultural Pool intends to



Egoscue Law Group, Inc.

seek appropriate remedy upon default including but not limited to interest and penalties as contained in Paragraph 9.2 of the Peace Agreement.

Dated: August 6, 2020



Tracy J. Egoscue
Legal Counsel for the
Overlying (Agricultural) Pool

EXHIBIT E

MINUTES
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING

August 25, 2020

The Watermaster Board meeting was held via GoToMeeting (conference call and web meeting) on August 25, 2020.

WATERMASTER BOARD MEMBERS PRESENT ON CALL

| | |
|-------------------------------|--|
| Jeff Pierson, Chair | Agricultural Pool – Crops |
| James Curatalo, Vice-Chair | Fontana Union Water Company |
| Bob Kuhn, Secretary/Treasurer | Three Valleys Municipal Water District |
| Bob Bowcock | CalMat Co. |
| Steve Elie | Inland Empire Utilities Agency |
| Don Galleano | Western Municipal Water District |
| Paul Hofer | Agricultural Pool – Crops |
| Victor Preciado | City of Pomona |
| Peter Rogers | City of Chino Hills |

WATERMASTER STAFF PRESENT AT WATERMASTER

| | |
|----------------|--------------------------|
| Peter Kavounas | General Manager |
| Janine Wilson | Senior Accountant |
| Vanessa Aldaz | Administrative Assistant |

WATERMASTER STAFF PRESENT ON CALL

| | |
|---------------------|---|
| Joseph Joswiak | Chief Financial Officer |
| Edgar Tellez Foster | Water Resources Mgmt. and Planning Dir. |
| Anna Nelson | Executive Services Director/Board Clerk |
| Justin Nakano | Water Resources Technical Manager |

WATERMASTER CONSULTANTS PRESENT ON CALL

| | |
|-----------------|--------------------------------------|
| Scott Slater | Brownstein Hyatt Farber Schreck, LLP |
| Brad Herrema | Brownstein Hyatt Farber Schreck, LLP |
| Mark Wildermuth | Wildermuth Environmental, Inc. |
| Andy Malone | Wildermuth Environmental, Inc. |

OTHERS PRESENT ON CALL

| | |
|--------------------|--|
| Ron Craig | City of Chino Hills |
| Betty Anderson | Jurupa Community Services District |
| Chris Diggs | City of Pomona |
| David De Jesus | Three Valleys Municipal Water District |
| Gino Filippi | Agricultural Pool – Crops |
| Pete Hall | Agricultural Pool – State of CA – CIM/CDCR |
| Brian Geye | California Speedway Corporation |
| Christiana Daisy | Inland Empire Utilities Agency |
| Bob Feenstra | Agricultural Pool – Dairy |
| Marilyn Levin | Agricultural Pool – State of CA – DOJ |
| Courtney Jones | City of Ontario |
| Dave Crosley | City of Chino |
| Eunice Ulloa | City of Chino |
| Joshua Aguilar | Inland Empire Utilities Agency |
| Richard Rees | Wood plc |
| Tracy Egoscue | Egoscue Law Group, Inc. |
| Amanda Coker | City of Chino |
| John Bosler | Cucamonga Valley Water District |
| Praseetha Krishnan | Cucamonga Valley Water District |

Steven Ledbetter
Steven Ledbetter
Scott Burton
Robert DiPrimio

City of Upland
West End Consolidated Water Company
City of Ontario
San Gabriel Valley Water Company

CALL TO ORDER

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

(0:02:22) Ms. Nelson conducted the roll call and announced that all nine Board members were present.

PUBLIC COMMENTS

None

AGENDA - ADDITIONS/REORDER

None

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

Approve as presented:

1. Minutes of the Watermaster Board Meeting held July 23, 2020
2. Minutes of the Watermaster Board Special Meeting held August 4, 2020

B. FINANCIAL REPORTS

Receive and file as presented:

1. Cash Disbursements for the month of June 2020
2. Watermaster VISA Check Detail for the month of June 2020
3. Combining Schedule for the Period July 1, 2019 through June 30, 2020
4. Treasurer's Report of Financial Affairs for the Period June 1, 2020 through June 30, 2020
5. Budget vs. Actual Report for the Period July 1, 2019 through June 30, 2020
6. Cash Disbursements for July 2020 (Information Only)

C. APPLICATION: WATER TRANSACTION

Approve the proposed transaction:

The permanent transfer of 464.240 acre-feet of Safe Yield rights from Carlsberg Mobile Home Properties, LTD '73 to Hamner Park Associates, LP based on transfer of land ownership by Grant Deed dated September 30, 1987. This transfer is contingent on Hamner Park Associates, LP's successful intervention into the Overlying (Non-Agricultural) Pool.

D. APPLICATION: WATER TRANSACTION

Approve the proposed transaction:

The purchase of 708.3 acre-feet of water from West End Consolidated Water Company by the City of Upland. This purchase is made from West End Consolidated Water Company's Annual Production Right. The City of Upland is utilizing this transaction to produce its West End Consolidated Water Company shares. Date of application: June 18, 2020.

E. APPLICATION: WATER TRANSACTION

Approve the proposed transaction:

The permanent transfer of Safe Yield Rights from Nicholson Trust to Nicholson Family Trust – Exempt Marital Trust. Date of application: June 8, 2020.

F. APPLICATION: RECHARGE

Approve Cucamonga Valley Water District's Application for Recharge and direct Watermaster staff to account for this supplemental water recharged in Cucamonga Valley Water District's existing Local Supplemental Storage account.

G. APPLICATION: RECHARGE

Approve Fontana Water Company's Application for Recharge (up to 300 acre-feet to be recharged into the Vulcan Basin) and direct Watermaster staff to account for this supplemental water recharged in Fontana Water Company's existing Local Supplemental Storage account.

H. APPLICATION: RECHARGE

Approve Fontana Water Company's Application for Recharge (up to 100 acre-feet to be recharged into the vineyard located along the south side of Beech Avenue and east of Cherry Avenue in the City of Fontana (MAR project)) and direct Watermaster staff to account for this supplemental water recharged in Fontana Water Company's existing Local Supplemental Storage account.

I. APPLICATION: RECHARGE

Approve San Antonio Water Company's Application for Recharge and direct Watermaster staff to account for this supplemental water recharged in San Antonio Water Company's existing Local Supplemental Storage account.

(0:05:25) A motion was introduced by Mr. Kuhn and seconded by Mr. Rogers.

(0:06:25) A roll call vote was taken.

Motion by Mr. Bob Kuhn, seconded by Mr. Peter Rogers, and by unanimous roll call vote as attached to these minutes

Moved to approve the Consent Calendar as presented.

II. BUSINESS ITEMS**A. OAP LEGAL EXPENSE INCREASE**

Direct staff to issue invoices to the Appropriative Pool Parties for the \$167,000 unreimbursed increase, allocated on the basis of the "Ag Pool Reallocation".

(0:07:40) Mr. Kavounas gave a report. A discussion ensued.

(0:10:19) A motion was introduced by Mr. Bowcock and seconded by Mr. Galleano.

(0:11:50) A roll call vote was taken.

Motion by Mr. Bob Bowcock, seconded by Mr. Don Galleano, and by majority roll call vote as attached to these minutes

Moved to direct Watermaster staff to issue invoices in accordance with the court order.

Mr. Preciado, representing the City of Pomona, voted against the motion.

B. 2020 OBMP CEQA – INCREASED SCOPE OF WORK (DISCUSSION ONLY)

No recommendation at this time.

(0:13:40) Mr. Tellez Foster gave a report. A discussion ensued.

C. THIRD SUPPLEMENT TO THE OBMPU STATUS REPORT

Direct Legal Counsel to file the 3rd Supplement to the OBMP Status Report.

(0:24:27) Mr. Kavounas gave a report.

(0:26:09) A motion was introduced by Mr. Hofer and seconded by Mr. Bowcock.

(0:26:32) A roll call vote was taken.

Motion by Mr. Paul Hofer, seconded by Mr. Bob Bowcock, and by unanimous roll call vote as attached to these minutes

Moved to direct Legal Counsel to file the Third Supplement to the OBMPU Status Report with the court.

III. REPORTS/UPDATES

A. LEGAL COUNSEL REPORT

1. San Bernardino County Superior Court Emergency Order
2. July 10, 2020 Hearing
3. September 25, 2020 Hearing
4. Ely 3 Basin Update

(0:27:42) Mr. Slater gave a report.

B. ENGINEER REPORT

1. Ground-Level Monitoring Committee – Meeting Summary
2. OCWD Monitoring Wells in Prado Basin
3. 97-005 Study Results

(0:33:15) Mr. Malone gave a report. A discussion ensued.

C. CFO REPORT

None

D. GM REPORT

1. Data and Modeling Review of the Chino Valley Model
2. Procedure and Fee Schedule for Requesting Information and Documents Related to the Chino Valley Model
3. Consideration of the 2020 Optimum Basin Management Program Update
4. Fiscal Year 2019/20 Budget Transfer (Form T-20-06-01)
5. Status report: OAP Contest
6. Watermaster Business Plan
7. Other

(0:40:10) Mr. Kavounas gave a report. A discussion ensued.

IV. INFORMATION

None

V. BOARD MEMBER COMMENTS

None

VI. OTHER BUSINESS

None

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

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

Chair Pierson called for a confidential session at 11:53 a.m. to discuss the following:

1. Conference with Legal Counsel – Anticipated Litigation: One Case

(0:52:55) Ms. Nelson conducted the roll call following confidential session for purposes of quorum and announced that a quorum was present.

Confidential Session concluded at 12:21 p.m. with the following reportable action:

(0:54:32) The members of the Board met today in closed session to consider pending potential litigation and a pending claim that has been filed with Watermaster by Kaiser. After considering the matter in closed session the Board has determined to deny the pending claim.

ADJOURNMENT

Chair Pierson adjourned the Watermaster Board meeting at 12:24 p.m.

Secretary: _____

Approved: September 24, 2020

Attachments:

1. 20200825 Roll Call Vote Outcome for Consent Calendar
2. 20200825 Roll Call Vote Outcome for Business Item II.A.
3. 20200825 Roll Call Vote Outcome for Business Item II.C.

August 25, 2020 Watermaster Board Meeting Roll Call Vote for
Consent Calendar Items I.A.-I.I.

| Member | Alternate | I.A. - I.I. |
|--------------------------------|-----------|--------------------|
| Bowcock, Bob | | yes |
| Curatalo, James, Vice-Chair | | yes |
| Elie, Steve | | yes |
| Galleano, Don | | yes |
| Hofer, Paul | | yes |
| Kuhn, Bob, Secretary/Treasurer | | yes |
| Preciado, Victor | | yes |
| Rogers, Peter | | yes |
| Pierson, Jeff, Chair | | yes |
| OUTCOME: | | Passed Unanimously |

Attachment 2 to 20200825 Watermaster Board Minutes
Business Item II.A. - OAP Legal Expense Increase

August 25, 2020 Watermaster Board Meeting Roll Call Vote for
Business Item II.A. - OAP Legal Expense Increase

| Member | Alternate | II.A. |
|--------------------------------|-----------|--------------------|
| Bowcock, Bob | | yes |
| Curatalo, James, Vice-Chair | | yes |
| Elie, Steve | | yes |
| Galleano, Don | | yes |
| Hofer, Paul | | yes |
| Kuhn, Bob, Secretary/Treasurer | | yes |
| Preciado, Victor | | no |
| Rogers, Peter | | yes |
| Pierson, Jeff, Chair | | yes |
| OUTCOME: | | Passed by Majority |

Attachment 3 to 20200825 Watermaster Board Minutes
Business Item II.C. - Third Supplement to the OBMPU Status Report

| |
|---|
| August 25, 2020 Watermaster Board Meeting Roll Call Vote for Business Item II.C. - Third Supplement to the OBMPU Status Report |
|---|

| Member | Alternate | II.C. |
|--------------------------------|-----------|--------------------|
| Bowcock, Bob | | yes |
| Curatalo, James, Vice-Chair | | yes |
| Elie, Steve | | yes |
| Galleano, Don | | yes |
| Hofer, Paul | | yes |
| Kuhn, Bob, Secretary/Treasurer | | yes |
| Preciado, Victor | | yes |
| Rogers, Peter | | yes |
| Pierson, Jeff, Chair | | yes |
| OUTCOME: | | Passed Unanimously |

CHINO BASIN WATERMASTER

Case No. RCVRS 51010

Chino Basin Municipal Water District v. City of Chino, et al.

PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On October 27, 2020 I served the following:

1. DECLARATION OF JOSEPH S. JOSWIAK IN SUPPORT OF CHINO BASIN WATERMASTER LIMITED OPPOSITION TO MOTION OF APPROPRIATIVE POOL MEMBER AGENCIES RE: AGRICULTURAL POOL LEGAL AND OTHER EXPENSES

/X/ BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by United States Postal Service mail at Rancho Cucamonga, California, addresses as follows:

See attached service list: Mailing List 1

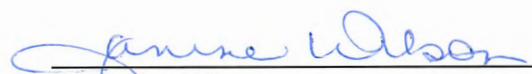
/ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/ BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

/X/ BY ELECTRONIC MAIL: I transmitted notice of availability of electronic documents by electronic transmission to the email address indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting electronic mail device.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 27, 2020 in Rancho Cucamonga, California.



By: Janine Wilson
Chino-Basin Watermaster

PAUL HOFER
CBWM BOARD MEMBER
11248 S TURNER AVE
ONTARIO, CA 91761

JEFF PIERSON
2 HEXAM
IRVINE, CA 92603

ALLEN HUBSCH
LOEB & LOEB LLP
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SUITE 2200
LOS ANGELES, CA 90067

BRIAN GEYE
CA SPEEDWAY CORPORATION
9300 CHERRY AVE
FONTANA, CA 92335

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| | |
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