

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

*March 1, 2004*

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California, on March 1, at 1:00 p.m.

**WATERMASTER BOARD MEMBERS PRESENT**

|                          |  |
|--------------------------|--|
| Robert Neufeld, Chair    | Fontana Union Water Company                |
| Terry Cattin, Vice-Chair | Inland Empire Utilities Agency             |
| Dan Rodriguez, Secretary | City of Pomona                             |
| Bob Kuhn                 | Three Valleys Municipal Water District     |
| Geoffrey Vanden Heuvel   | Agricultural Pool, Dairy                   |
| Bill Kruger              | City of Chino Hills                        |
| Bob Bowcock              | Vulcan Materials Company (Calmat Division) |
| Robert Feenstra          | Milk Producers Council                     |
| Phil Rosentrater         | Western Municipal Water District           |

**Watermaster Staff Present**

|                     |                         |
|---------------------|-------------------------|
| John Rossi          | Chief Executive Officer |
| Gordon Treweek      | Project Engineer        |
| Danielle Maurizio   | Senior Engineer         |
| Sheri Rojo          | Finance Manager         |
| Sherri Lynne Molino | Recording Secretary     |

**Watermaster Consultants Present**

|                 |                                |
|-----------------|--------------------------------|
| Michael Fife    | Hatch & Parent                 |
| Mark Wildermuth | Wildermuth Environmental, Inc. |

**Others Present**

|                     |                                      |
|---------------------|--------------------------------------|
| Vic Barrion         | Reliant Energy, Etiwanda LLC         |
| Mike Maestas        | City of Chino Hills                  |
| Josephine Johnson   | Monte Vista Water District           |
| Mark Kinsey         | Monte Vista Water District           |
| Ken Jeske           | City of Ontario                      |
| Dave Crosley        | City of Chino                        |
| Raul Garibay        | City of Pomona                       |
| Henry Pepper        | City of Pomona                       |
| Robert DeLoach      | Cucamonga Valley Water District      |
| Rita Kurth          | Cucamonga Valley Water District      |
| Gerard Thibeault    | Regional Water Quality Control Board |
| Jean Cihigoyenetché | Inland Empire Utilities Agency       |

The Board meeting was called to order by Chair Nuefeld at 1:00 p.m.

**AGENDA - ADDITIONS/REORDER**

It was asked that section III REPORTS/UPDATES, under B. CEO/STAFF REPORT, item 1 be presented prior to section II BUSINESS ITEMS due time constraints for Mr. Wildermuth.

**I. CONSENT CALENDAR****A. MINUTES**

1. Minutes of the Watermaster Board Annual meeting held January 29, 2004
2. Minutes of the Appropriative Pool Special Conference Call held January 21, 2004

**B. FINANCIAL REPORTS**

1. Cash Disbursements for the month of January 2004
2. Combining Schedule of Revenue, Expenses and Changes in Working Capital for the Period July 1, 2003 through December 31, 2003
3. Treasurer's Report of Financial Affairs for the Period December 1, 2003 through December 31, 2003
4. Profit & Loss Budget vs. Actual July 2003 through December 2003
5. SWRCB Water Right Fee

**C. WATER TRANSACTION**

1. Consider Approval for Transaction of Notice of Sale or Transfer from West San Bernardino County Water District to Cucamonga Valley Water District in the Amount of 500 acre-feet

*Motion by Catlin, second by Kruger, and by unanimous vote*

***Moved to approve Consent Calendar Items A through C, as presented***

This item was taken out of sequence per request under agenda additions/reorder.

**III. REPORTS/UPDATES****B. CEO/STAFF REPORT**

1. Mark Wildermuth Will Make a Presentation Regarding OBMP Progress through December 31, 2003

Mr. Wildermuth gave the second portion of the OBMP Progress presentation which focused on Desalter production and its impact on the basin. Mr. Wildermuth reminded the Board that he had previously given the presentation on Hydraulic Control and noted that he will cover other OBMP activities in subsequent meetings. Mr. Wildermuth reviewed several maps that detailed TDS levels, Nitrate, and water quality anomalies. Lastly, he reviewed current Desalter activities highlighting three points 1) Preserve/enhance the Safe Yield, 2) Put degraded groundwater to beneficial use, and 3) Hydraulic control of groundwater outflow. Mr. Wildermuth read the September 2000 Court Order which read, "The Court hereby gives notice to the parties that a primary concern of the Court in any future application of reappointment of the nine-member board will be in the parties' continued commitment to provide for future desalters and preserve the safe yield in accordance with the OBMP". This brought about a brief discussion regarding the MZ1 three year study period and it was noted that this item needs to be on the Agenda for March. Questions were presented, whereupon Mr. Wildermuth felt his responses would be brought back to the Board members at the March meetings after discussion with Mr. Rossi and review of gathered information.

**II. BUSINESS ITEMS****A. REQUEST FROM CITY OF CHINO CREDIT AGAINST OBMP ASSESMENTS (FORM 7)**

Mr. Rossi commented that discussions started in the October/November time frame regarding the credit the City of Chino was requesting for facilities they are building. The gathering of comments from the Pools, Advisory Committee and finally the Board, will be brought back for review. A brief analysis of page 46 of the packet on Projects, Programs and Activities that Could be Eligible was made. Mr. Rossi stated that there was a Draft City of Ontario Form 7 Application on the back table for information purposes and is looking for input on that as well as the City of Chino's Form 7. The question whether the credit would be limited to the annual

assessments was presented. A discussion ensued regarding this question and one concern noted was, the possibility of zeroing out assessments due to credits along with the credit being required to be consistent with the OBMP.

This item is for information only and comments are being formulated from each meeting and will be addressed at the March meetings for comment.

**B. DISCUSS ASSISTANCE TO REGIONAL WATER QUALITY CONTROL BOARD ON WATER QUALITY ANOMOLY SOUTH OF ONTARIO AIRPORT**

Mr. Rossi informed Board members the Pools and Advisory Committee unanimously recommended approval to provide counsel assistance to write up draft clean up and abatement orders for the Regional Board and was bringing this recommendation to the Board. Mr. Rossi added comment that the Agricultural Pool recommended the approval after receiving an overview and a question and answer session given by Mr. Thibeault at the Pool meetings in February. A discussion ensued regarding the previous Pool and Advisory meetings which reviewed concerns and comments.

Verbatim statements at the request of Board members are as follows:

*Geoff Vanden Heuvel said, "I appreciate Gerry Thibeault visiting with the Ag Pool and the Ag Pool did decide to support this and as a representative of the Ag Pool I will support it. I do have grave misgivings about it though. I don't think this is the right way to do public policy, I think the government ought to fund its own enforcement. The public shouldn't be depending on third parties to provide financing to do enforcement of the law. Again, I think its a bad way to do public policy and so I have a principled opposition to this, but I realize the practical concerns and the importance of the issue and I also appreciate Gerry's visiting with the Ag Pool and taking all of our questions and we had a very good discussion and in the scope of things, I will support the upcoming motion to endorse this, although I want my reservations noted in the minutes".*

*Chair Neufeld said, "I would certainly agree with Mr. Vanden Heuvel. I would agree that maybe what we need to do is, as a part of this, we undertake this as a Board to look at this issue to see what we can do to support these other agencies in being able to find the necessary funding that they need from the state because I certainly do not agree that we should be there to do these things that is really the responsibly of those agencies and through no fault of their own they are unable to do that. So while I am supportive of the motion that comes before us here I also want the record to reflect that I am certainly opposed to this becoming a regular policy for this agency or any other public agency to support the police actions that are required by law for other agencies to do as part of their responsibility".*

*Motion by Feenstra and second by Kruger, and by unanimous vote*

***Moved to approve up to \$25,000 to place assistance for the Regional Board to prepare draft clean up and abatement orders***

Dialog continued between Board members and the question of a time frame was asked of Mr. Thibeault along with a scenario of actions with a time frame after the Potentially Responsible Party (PRP) receives the clean up and abatement order. Mr. Thibeault felt that the majority of time spent would be for reviewing the response from the PRP than actually preparing the draft clean up and abatement orders. With this answer, Mr. Feenstra wanted to withdraw his prior motion although Chair Neufeld stated to leave the motion as standing for discussion purposes.

Discussion ensued at length and the Board was perplexed at the answer of the time frame due to the fact that this was the first mention that assistance was not only for preparation of draft clean up and abatement orders but for reviewing responses. It was noted that more

discussion and information was needed before a motion was made. Chair Nuefeld inquired, at this time, if Mr. Feenstra and Mr. Bowcock wanted to withdraw their motion.

*Motion withdrawn by Feenstra and second withdrawn by Bowcock, and by unanimous vote*

**Moved to withdraw first motion to rectify motion and provide more clarity to the direction the funds will be used and in what time frame**

Mr. Rossi offered suggested wording for the motion to read as, "Move to authorize up to \$25,000 to provide consulting assistance to the RWQCB for the preparation of draft clean up and abatement orders within 120 days, and to authorize any unexpended funds to be utilized in support of the clean up and abatement orders to be expended no later than September 30, 2004".

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

**Moved to have a discussion on Mr. Rossi's suggested language for motion**

It was recommended to go out a year instead of six months and a report must be given by September 30, 2004 on what is going on with the progress by Watermaster. Also, it was suggested that a closer leash on the issue other than 120 days is needed for progress reports. It was suggested to set a date of 90 days to hear a review from the Regional Board and to be immediately copied on any and all responses and/or correspondence to the Regional Board and to receive summary reports on this discussion. Lastly, a question was presented to Counsel Fife as to whether Watermaster would be exposed to any liability of lawsuit from potential PRPs for having provided this assistance to the Regional Board.

Counsel Fife answered, that counsel had looked at this question in an anticipation of the discussion at the Agricultural Pool level, at the request of Mr. Brommenschenkel. Counsel Fife noted that one of the requirements of providing this assistance to the Regional Board is that Watermaster cannot control the Regional Board, that they must maintain their full discretion as to how to spend the money, how to pursue the PRP, etc. Watermaster is simply giving them the resources to do this task and because of that liability concerns should be minimal. Watermaster is not telling the Regional Board to do any specific action; we are simply giving them the resources to pursue an enforcement task which they have already identified. In a broader sense the only source of liability counsel's research revealed was where PRPs were pursued for some type of improper purpose. Such as, we don't like the people -- we are going after them because we don't like them, something like that. Counsel Fife indicated that there are reams of documentation that support the idea that we are going after these PRPs as an attempt to resolve legitimate water quality problems.

Mr. Rossi added that he would be meeting with Jennifer West in Sacramento to review this issue with her as requested in recent meetings to apprise legislative members of these current situations.

With all comments received, Chair Nuefeld requested a motion be presented to the Board members.

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

**Moved to authorize up to \$25,000 to provide consulting assistance to the Regional Board for the preparation of draft clean up and abatement orders within 90 days and authorize any unexpended funds to be utilized in support of the clean up and abatement orders no later than February 28, 2005. Watermaster staff shall report quarterly on this project**

**C. BASIN PLAN AMENDMENT**

Legal counsel was tasked to provide an analysis of consistency of the Basin Plan Amendment, the Peace Agreement, and associated documents. Counsel Fife offered a presentation which examined the a) Judgment, b) Peace Agreement, c) OBMP (Phase I Report and Implementation Plan), d) Court Orders, and e) Rules and Regulations. Counsel Fife stated the Basin Plan Amendment contains both "Maximum Benefit" standards as well as "antidegradation" standards. Counsel Fife described the Maximum Benefit component of the Basin Plan Amendment as adopted by RWQCB and emphasized two issues addressed by the Peace Agreement: the Desalter schedule requirement and IEUA's waste discharge exceedance desalter requirement. The schedule for implementation for the next 20 mgd of desalter capacity, pursuant to the Peace Agreement that implements the Chino Basin OBMP, and as required by the San Bernardino Superior Court, must be submitted to the Regional Board by the Chino Basin Watermaster by October 1, 2005 was discussed in length. Counsel Fife read the September 28, 2000 Court Order, and sections of the Implementation Plan, Program Element 3 found on page 23 and 26. It was noted that the Desalter schedule requirement was defined primarily by the Court and the OBMP, and not by the Basin Plan Amendment. Counsel Fife noted that the parties could decide not to submit a schedule to RWQCB and the consequence would be reversion to antidegradation standards. Counsel Fife also reviewed the Basin Plan Amendment language regarding IEUA's waste discharge exceedance desalter requirement and a discussion ensued. The Peace Agreement sections regarding commitments relative to the next desalter were discussed in terms of their relationship to the Basin Plan Amendment.

Comment was received regarding Agriculture still being in the area and taking advantage of that in investigating Desalter III possibilities. Also noting it was felt that we are replacing Agricultural production with Desalter production. A discussion ensued as to what the court is requiring as far as a schedule for a continued commitment to this portion of the OBMP and argument was received with regard to reduced Agricultural data. Counsel Fife stated that the only guidance so far provided by the Court is that it will be expecting to see a schedule which demonstrates a continued commitment to implement the desalter component of the OBMP.

Counsel Fife mentioned that the decision of the next desalter needs to be driven by hydraulics and this needs to be discussed further. Concerns of language consistency were presented and Counsel Fife stated that there is no inconsistency found and felt it was consistent with the Peace Agreement. An inquiry if the SWRQB could expedite approval of Basin Plan Amendment was presented. Mr. Thibeault affirmed that they could hear it sooner. This comment was asked to be added to the agenda for a motion.

*Motion by Vanden Heuvel, second by Kruger, and by unanimous vote*  
**Moved to add this item to the agenda for possible action**

*Motion by Vanden Heuvel, second by Kruger, and by unanimous vote*  
**Moved to consider requesting SWRQB to expedite approval of Basin Plan Amendment**

**III. REPORTS/UPDATES****A. WATERMASTER GENERAL LEGAL COUNSEL REPORT****1. Chino Land & Water – Hearing on March 3, 2004 in Riverside**

Counsel Fife reported that oral argument in the appeal of this case is scheduled for March 3, 2004 at 8:30 am in Riverside. Each side will be given 15 minutes for argument.

2. MZ1 Workshop with Special Referee  
Counsel Fife commented that this meeting as originally scheduled was delayed in order to allow for more data to be collected. A new workshop will be scheduled, likely for sometimes in May.
3. DYY Storage Agreement and Court Approval  
A storage agreement for final approval of the DYY project is near completion. Counsel has worked with IEUA to develop storage agreement terms and it is anticipated that the draft agreement will be presented to the Pools in March.
4. Basin Plan Amendment Review  
Item 4 was covered by Counsel Fife's previous presentation and no further comment was made.
5. SWRCB Water Right Fee  
Due to the statewide budget issues, the SWRCB has moved forward with implementation of a recent law that allows them to impose a fee upon SWRCB permitted water rights. Because Watermaster holds such rights in the San Sevaime system, the SWRCB has sent a bill to Watermaster. Because of the limited amount of Watermaster's rights, and the relatively small amount of the fee, the cost to Watermaster will be about \$1200. Counsel reports that other groups who are more significantly impacted have initiated litigation against the SWRCB.

Counsel Fife added below comment to III REPORTS/UPDATES section A. GENERAL LEGAL COUNSEL REPORT

Counsel Fife referenced the additional handout on the back table regarding the January 26, 2004 Loeb & Loeb letter written to Mr. Rossi of the Chino Basin Watermaster requesting copies of any and all documentation on the subject of the former Kaiser facility near Fontana, California.

**B. CEO/STAFF REPORT**

1. Mark Wildermuth Will Make a Presentation Regarding OBMP Progress through December 31, 2003  
This item was taken out of order and placed prior to II BUSINESS ITEMS.
2. Discuss MWD Rate Increase Proposal  
Mr. Rossi commented that Metropolitan was raising their rates and that Watermaster was concerned about replenishment rates and that the CFO from Metropolitan agreed to meet with Mr. Atwater and himself regarding this issue.
3. Update Regarding the Water Quality Committee Meeting of February 5, 2004  
Mr. Rossi presented what topics were discussed at the Water Quality Committee meeting and noted Dr. Rhodes Trussell gave a presentation on Regulation and Removal of Perchlorate. Mr. Rossi noted that the first set of data from the Chino Airport TCE had come out; although he had not yet seen it. There was a discussion on this topic at the meeting. A discussion ensued with regard to the settlement negotiations with Kaiser. Counsel Fife was asked to review the agreement once it was completed.
4. Update Regarding Reimbursement of \$169,209 for Recharge Improvement Costs  
Mr. Rossi informed the Board about the reimbursement check received and felt that these funds needed to be placed in a reserve account until the 7<sup>th</sup> bid package was finalized.

5. Discuss Process of Establishing Future Desalter Ad Hoc Committee

Mr. Rossi stated he felt it could be necessary to form an Ad Hoc Committee to specifically deal with the future desalter implementation processes and asked the thoughts of the Board members. Mr. Rossi informed the Board that he had met with Scott Slater three months ago to discuss issues and brainstorm on objectives and realities for upcoming desalter discussions. A reminder was made that the Court must have a written report for future desalters filed by September 2005 and that it would take approximately 6 to 9 months for the planning. Mr. Rossi noted the received concerns and stated that he will be soliciting comments to begin this discussion process and welcomed participation and will appreciate suggestions being brought back to the March meeting.

IV. INFORMATION

1. Refund of \$188,114.90 From MWD for Fiscal Year 2002/2003

Mr. Rossi informed the Committee that the refund had been received and Watermaster's portion was \$188,114.90 from Metropolitan Water District. Watermaster is analyzing the various ways to divide up the refund and Mr. Rossi commented that it should be equitably distributed. Further update will follow at the March meetings.

V. POOL MEMBER COMMENTS

Mr. Feenstra inquired if he was able to submit suggestions and/or comments on the various requests since he was a substitute. It was noted that all comments were welcome to assist in moving forward on issues. Mr. Neufeld requested that an update on the recent storms and current construction activities be added to the agenda for next month.

VI. OTHER BUSINESS

Mr. Rossi acknowledged the AGWA committee last year had low attendance along with less eagerness displayed than in previous years however was pleased to report that at the last meeting there was good attendance and the committee had a very productive session and felt there was a sense of renewed enthusiasm within the group.

Mr. Rossi also mentioned that Mr. Joe Scalmanini will be in attendance at the upcoming MZ1 Technical Group/Injection Well Demonstration Project meeting being held at the Chino City Hall facility on March 10, 2004.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

This item was cancelled and no further comment was made for this item.

VIII. FUTURE MEETINGS

|                   |            |   |
|-------------------|------------|---|
| February 26, 2004 | 10:00 a.m. | Advisory Committee Meeting                |
| March 1, 2004     | 1:00 p.m.  | Watermaster Board Meeting                 |
| March 11, 2004    | 3:00 p.m.  | Joint Appropriative & Non-Ag Pool Meeting |
| March 16, 2004    | 9:00 a.m.  | Agricultural Pool Meeting @ IEUA          |
| March 23, 2004    | 2:00 p.m.  | Water Quality Committee Meeting           |
| March 25, 2004    | 10:00 a.m. | Advisory Committee Meeting                |
|                   | 1:00 p.m.  | Watermaster Board Meeting                 |

The Watermaster Board Meeting Adjourned at 3:35 p.m.

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

Minutes Approved: March 25, 2004