

PERS00368

Minutes
CHINO BASIN WATERMASTER
AGRICULTURAL POOL MEETING
October 13, 2011

The Agricultural Pool Meeting was held at the offices of Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on October 13, 2011 at 1:00 p.m.

Agricultural Pool Members Present Who Signed In

Bob Feenstra, Chair	Dairy
Nathan deBoom	Dairy
John Huising	Dairy
Gene Koopman	Milk Producers Council
Glen Durrington	Crops
Jeff Pierson	Crops
Jennifer Novak	State of California, Dept. of Justice, CIM

Watermaster Board Member Present

Paul Hofer	Crops
Geoffrey Vanden Heuvel	Dairy

Watermaster Staff Present

Desi Alvarez	Chief Executive Officer
Danielle Maurizio	Senior Engineer
Gerald Greene	Senior Environmental Engineer
Joe Joswiak	Chief Financial Officer
Sherri Molino	Recording Secretary

Watermaster Consultants Present

Michael Fife	Brownstein, Hyatt, Farber & Schreck
Joe LeClaire	Wildermuth Environmental Inc.

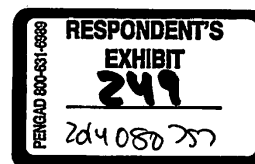
Others Present Who Signed In

Tracy Egoscue	Paul Hastings
Dave Crosley	City of Chino
Gil Aldaco	City of Chino
Eunice Ulloa	Chino Basin Water Conservation District
Bob Gluck	City of Ontario
Scott Burton	City of Ontario
Marsha Westropp	Orange County Water District
Curtis Paxton	Chino Desalter Authority

Chair Feenstra called the Agricultural Pool meeting to order at 1:01 p.m.

AGENDA - ADDITIONS/REORDER

Chair Feenstra stated he and Curtis Paxton met yesterday about the operations of the Desalters and the concerns that the Agricultural Pool has over cooperation between them regarding water for the agricultural users. Chair Feenstra stated he and Mohamed El-Amamy and Scott Burton also met yesterday, it was a good meeting and many items were discussed. Chair Feenstra noted how encouraged he is with his dealings with the City of Ontario as they all work together with regard to the plume and other concerns of the Watermaster. Chair Feenstra thanked Director Vanden Heuvel and Director Hofer for attending the meeting today.



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E. STATE OF THE BASIN REPORT - WATER QUALITY PRESENTATION (Information Only)

Mr. LeClaire gave the Groundwater Quality - 2010 State of the Basin Briefing Part 2 presentation. The primary concerns of the SOB are groundwater levels, storage, subsidence, and water quality. At the last set of pool meetings Mark Wildermuth provided a summary of groundwater levels and storage. Today, we will briefly address groundwater quality. Mr. LeClaire stated in 1999 the Comprehensive Monitoring Program initiated the systematic sampling of private wells south of State Route 60 in the Chino Basin. Over a three-year period, Watermaster sampled all available wells at least twice to develop a robust baseline data set. As we'll discuss later their robust data set turned out to be a wise investment. This program has since been reduced to approximately 110 private key wells, and about one-third of these wells are sampled every other year. Mr. LeClaire reviewed several groundwater quality maps in detail. Mr. LeClaire stated it is not surprising that we have high concentrations of TDS and nitrate south of the 60 freeway. As Mark explained last month, there was a significant pumping depression in the agricultural preserve. As we've spoken about before, a feedback loop was developed. Consumptive use causes an increase in the concentration of salts and the cycle repeats. Mr. LeClaire stated we have the following TCE plumes in Chino Basin: GE Flat Iron, GE Test Cell, Archibald South, Milliken Landfill, Chino Airport, Crown Coach, and Stringfellow. The CIM plume is a PCE plume, with some of the PCE degrading to TCE. Note that perchlorate, which is an ion, has migrated further than TCE. TCE absorbs and desorbs from soil organic matter and has a retardation coefficient of about 2, which means that its relative velocity is about half that of groundwater. Mr. LeClaire stated on September 28, 2011, the Environmental Protection Agency (EPA) released its Toxicological Review of Trichloroethylene (TCE) (EPA/635/R-09/011F). In this publication the EPA for the first time classified TCE as a human carcinogen regardless of the route of exposure. Prior to this the EPA classified TCE only as a "possible human carcinogen." (TCE) - MCL = 5 ppb; DLR = 0.5 ppb; PHG = 1.7 ppb. Health and Safety Code §116385(g) requires the Department, at least once every five years to review its MCLs. In this review, CDPH's MCLs are to be consistent with criteria of §116385(a) and (b). These criteria state that the MCLs cannot be less stringent than federal MCLs, and must be as close as is technically and economically feasible to the public health goals (PHGs) established by the Office of Environmental Health Hazard Assessment (OEHA). Consistent with those criteria, CDPH is to amend any standard if any of the following occur: (1) Changes in technology or treatment techniques that permit a materially greater protection of public health or attainment of the PHG, or (2) New scientific evidence indicates that the substance may present a materially different risk to public health than was previously determined. Mr. LeClaire stated each year by March 1, CDPH is to identify each MCL it intends to review that year. Mr. LeClaire stated robust data allowed Watermaster to convince the County that the Chino Airport's plume source was the airport. Mr. LeClaire stated 1,2,3-Trichloropropane (1,2,3-TCP) was used historically as a paint and varnish remover, cleaning and degreasing agent, and a cleaning and maintenance solvent, and more currently as a chemical intermediate (NTP, 2005). Its use as a pesticide was in formulations with dichloropropenes in the manufacture of D-D, a soil fumigant. Mr. LeClaire stated perchlorate is a regulated drinking water contaminant in California, with a maximum contaminant level (MCL) of 6 micrograms per liter (µg/L). The MCL became effective October 2007. In January 2011 OEHA released a draft technical support document for a 1-µg/L PHG for perchlorate for public comment. Mr. LeClaire stated on July 27, 2011, the Office of Environmental Health Hazard Assessment (OEHA) established a public health goal (PHG) for chromium-6 (hexavalent chromium) of 0.02 micrograms per liter (µg/L). Mr. LeClaire stated the PHG will contribute to CDPH's development of a primary drinking water standard (maximum contaminant level, MCL) that is specific for chromium-6. Mr. Durrington inquired about the snow pack melting and the possibility of it flushing out some of the contaminants. A discussion regarding Mr. Durrington's comments and concerns ensued. Chair Feenstra noted this matter will be discussed during the closed session today.

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applies to the Appropriators. Mr. Joswiak noted per the Peace Agreement Attachment G, it states the first anniversary date of when the first payment was made locks in the payment date for all future payments on a going forward basis and then the payment needs to be made on or before that anniversary date. Mr. Joswiak reminded the parties that the money needs to be in the Watermaster account prior to the payment which is scheduled for January 13, 2011. Mr. Joswiak stated it was brought to staff's attention that Watermaster was using the incorrect production data and he explained this matter in detail. Mr. Koopman inquired if the checks have been cashed for the other payments made. Mr. Joswiak stated all of the checks have been cashed with the exception of California Steel Industries (CSI), who cashed their check but gave Watermaster the money back. Mr. Joswiak noted CSI kept the funds from the first payment.

D. METROPOLITAN WATER DISTRICT REPLENISHMENT WATER POLICY PRESENTATION

Mr. Alvarez gave the Metropolitan Water District (MWD) Replenishment Water Program presentation which included History, MWD's Administrative Code, Historical MWD Rates, Reversing a Commitment, MWD Proposal Key Principles, Key Development Principles, Where MWD Replenishment is Headed, and MWD Proposed Program in detail. Mr. Alvarez discussed one of the MWD slides, and discussed the possibility of purchasing replenishment water seven years in advance as water is going to be available three out of ten years, which is going to significantly affect cash flow here at Watermaster. The parties are going to have to come up with a way to finance that water. Mr. Koopman asked how this new information is going to work in conjunction with the reoperation of the basin, and if it appears this is going to increase the future cost of water. Mr. Alvarez stated this is going to be a real challenge and staff is going to have to look at alternative supplies. Mr. Koopman inquired if Watermaster is going to re-look at reoperation if something like what was presented comes to pass. Mr. Alvarez stated Watermaster may have to look at reoperation and it is going to be tough to change course as there are a lot of implications; this is one of those things that requires a lot of thought. Mr. Alvarez stated once MWD finalizes this, Watermaster will have more information as to which way to go. Mr. Alvarez offered final comment on MWD's financial stability and noted he believes it would be worthwhile to try to get a quantitative estimate; it would behoove us to have a study done now. Mr. Alvarez stated he has been meeting with MWD staff and this has been pointed out to them, and they have said they think an economic study might be worthwhile. Mr. Alvarez stated he thinks we should all get together to help fund that study and that MWD be part of this endeavor; it is not a short term study, it may take may over a year to complete. Mr. Koopman inquired when MWD was going to finalize this. Mr. Alvarez stated the schedule right now is that this will be moving through the MWD process and be presented to the MWD board in December. Mr. Alvarez stated the Policy Principals suggested in the presentation today will be the ones the MWD board is going to adopt, and they are going to adopt this framework in a skeletal basis like this, with the details to be flushed out. A lengthy discussion regarding this matter ensued. Mr. Vanden Heuvel thanked Mr. Alvarez for the presentation. Mr. Vanden Heuvel stated it appears we have been operating and built this basin on a premise that we would have replenishment water available to us and MWD is making it pretty clear they are going to be going in a different direction. Mr. Vanden Heuvel inquired as the MWD member agencies react to this, has there been any discussion on this matter. Mr. Vanden Heuvel offered further comments on MWD and their supply, or lack of, economically supplied replenishment water. Mr. Hofer inquired about one of the MWD Principals page slides and offered his understanding of what equity means. Mr. Hofer asked that copies of this presentation be made available. Mr. Alvarez stated it is available on the Watermaster ftp site and hardcopies will be made available to any party that requests one. Mr. Koopman offered final comment on this matter and noted it appears Watermaster, on behalf of this Basin, is going to have to look at alternative water supply sources. Chair Feenstra offered comment on Mr. Kightlinger's attendance at a breakfast at IEUA. Chair Feenstra asked that Ms. Egoscue keep a close eye on this matter. Mr. Durrington offered final comments regarding obtaining needed water. Chair Feenstra offered final comments on this matter.

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concerning mistakes. Counsel Fife stated Watermaster is given a four year window when mistakes are made that they can go back and be corrected; the push back from other members of the Appropriative Pool during the meeting was to point out that this was not a mistake, this was a application of policy and Watermaster may be changing the Policy. Mr. Koopman stated the 85/15 Rule goes back to the original adjudication and offered further comment/history on that rule, and noted his concern is changing the original adjudication. Mr. Geoffrey Vanden Heuvel stated where the Agricultural Pool is interested is that people operated in good faith, there was a practice of how the 85/15 Rule was to be applied, and we have learned over the last several months is how this 85/15 Rule has been applied. Mr. Geoffrey Vanden Heuvel stated people operated their water agencies in light of the way it was being practically applied, and it just came to light that maybe it was being misapplied or applied differently than it should have been. Mr. Geoffrey Vanden Heuvel stated it seems reasonable to clarify that on a go forward basis. However, to go back in time when people acted in good faith on the rules, as they understood them, and nobody challenged them at that time, and then to go back and rewrite history, that starts to open up too much and it becomes a policy issue that the Agricultural Pool might want to get interested in at some point.

B. DEFERMENT OF 2011/2012 ASSESSMENT PACKAGE

Mr. Alvarez stated every year Watermaster issues assessments which are done normally in the month of November. However, due to several issues, staff is asking for an extension of time. Ms. Maurizio stated it has been the practice over the last few years to bring the Assessment Package forward in the month of October and then send out the invoices in November. However, there are a lot of outstanding issues right now and it wasn't possible to get it done in October. Ms. Maurizio stated it appears it will take a couple more months for the issues to be resolved – the current issues are the 85/15 Rule and how Watermaster is going to handle preemptive replenishment. Those two items will affect the dollar side of the Assessment Package. Ms. Maurizio stated there are a couple of other outstanding issues – Watermaster is taking a different detailed look at supplemental storage accounts to make sure we are within the 100,000 acre-foot cap, and then there is a new issue that has been raised between Aqua Capital Management and California Steel Industries water rights; those don't affect the dollars of the Assessment Package but they do affect what goes into the Assessment Package since staff does track all storage accounts through the Assessment Package. Ms. Maurizio stated Watermaster is at a point where the Assessment Package needs to be deferred. The past precedent that was set a few years ago was to collect 50% of last year's assessments now so that Watermaster has operating funds on hand because there are not a lot of reserves. Ms. Maurizio stated at the Appropriative Pool meeting which took place prior to this meeting, they decided to table the issue for a month and also asked staff for alternative suggestions. Ms. Maurizio stated the Appropriative Pool also asked staff to provide a report at the next Advisory Committee and then bring it back through the Watermaster process next month. Ms. Maurizio stated the Non-Agricultural Pool tabled the matter until next month. Mr. Koopman inquired if one of the problems with the assessments was because of the lawsuit between Aqua Capital Management and California Steel Industries. Ms. Maurizio stated that is a problem because of water rights. Mr. Koopman stated that could take years to resolve and Watermaster can't stall the Assessment Package until that matter is settled. Ms. Maurizio offered further comment with this regard. Mr. Pierson offered comment on this matter. Ms. Novak inquired as to the effect to Watermaster if the Assessment Package is delayed and offered further comment on this matter. Mr. Alvarez stated Watermaster has a couple months that we don't need the money, but it is not an indefinite period of time. This will be reviewed and brought back next week per the request of the Appropriative Pool. A discussion regarding Watermaster finances ensued.

C. YEAR 3 PURCHASE OF NON-AGRICULTURAL POOL STORED WATER (Information Only)

Mr. Joswiak referenced the staff report on page 89 of the meeting package. Mr. Joswiak stated this is a standard item that Watermaster has done each year for the past few years, and noted this is the third of the fourth payments due which is done for the Non-Agricultural Pool water purchased. Mr. Joswiak stated payment number three is going to be \$2,377,249.88 and referenced the chart on page 91 of the meeting package which shows how the calculation as it

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I. CONSENT CALENDAR

A. MINUTES

1. Minutes of the Agricultural Pool Meeting held September 8, 2011

B. FINANCIAL REPORTS

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

C. WATER TRANSACTION

1. Consider Approval for Notice of Sale or Transfer – The lease and/or purchase of 781,000 acre-feet of water from San Antonio Water Company to the City of Ontario. This lease is made first from San Antonio's net underproduction in Fiscal Year 2011-2012, with any remainder to be recaptured from storage. Date of Application: September 1, 2011

A discussion regarding the presented Water Transaction ensued.

*Motion by Pierson second by Durrington, and by unanimous vote
Moved to approve Consent Calendar Items A through C, as presented*

II. BUSINESS ITEMS

A. 85/15 RULE POLICY (Information Only)

Mr. Alvarez offered a detailed history on the 85/15 Rule. Mr. Alvarez stated there was a workshop on the 85/15 Rule held in September, and at the workshop the Appropriative Pool members directed Watermaster staff to develop a specific formal policy for implementation of the 85/15 Rule; a draft copy of that policy is in the meeting package. Mr. Alvarez gave the 85/15 Rule Implementation Policy presentation in detail, which included the purpose of the rule and how it applies to the preemptive replenishment water. Mr. Alvarez stated this item was presented to the Appropriative Pool this morning and there was a great deal of discussion. However, there was no action taken on the formal policy. Mr. Alvarez noted there were other issues raised again such as if the 85/15 Rule should be done away with, as well as if this applies to the four year look back or on an ongoing basis should this rule be applied in terms of consistency with the Judgment. Mr. Alvarez stated the Appropriative Pool decided a second workshop needed to be scheduled as soon as possible. Mr. Geoffrey Vanden Heuvel inquired if the Appropriators were attempting to go back in time and trying to apply this new policy. Mr. Alvarez stated one of the parties raised that issue, and stated that issue still needed further discussion. Mr. Geoffrey Vanden Heuvel asked Watermaster staff at the last Watermaster Board meeting if that had been concluded and staff's response was that this was a policy on a go forward basis and not in arrears. Mr. Alvarez stated he thought that is where we are, and he was surprised by the Appropriative Pool comments because he thought at the workshop it was agreed to that it would be on a going forward basis. Mr. Geoffrey Vanden Heuvel asked the Agricultural Pool if they wanted to ask and/or inquire about setting precedent by changing rules or changing policies, and going backwards in time; this might be something the Agricultural Pool has an opinion on. Chair Feenstra stated he was assured by Mr. Koopman and Mr. Pierson that the 85/15 Rule does not affect the Agricultural Pool as it does the Appropriative Pool. Chair Feenstra stated he should have gone to the workshop, and noted the Agricultural Pool needs to pay attention to this matter closely. Mr. Pierson stated the 85/15 Rule is really just an accounting practice which was established by the Pool. However, the precedent that could be set by changing Pool matters and going backwards in time may have implications that this Pool may not really want to take place. Mr. Pierson stated in light of what Mr. Vanden Heuvel said, this Pool needs to be appraised of what is going on and to understand what, if anything, this has to do with the overall Judgment or the Restated Judgment, and the Appropriative Pool practices. Counsel Fife stated the legal basis for the suggestion of the go back was the Peace II Agreement section