PERS00336

Minutes
CHINO BASIN WATERMASTER
WATERMASTER BOARD MEETING
October 27, 2011

The Watermaster Board Meeting was held at the offices of the Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, CA, on October 27, 2011 at 11:00 a.m.

WATERMASTER BOARD MEMBERS PRESENT

Bob Kuhn, Chair	Three Valleys Municipal Water District
Charles Field	Western Municipal Water District
Paula Lantz	City of Pomona
Tom Haughey	City of Chino
Paul Hofer/Jeff Pierson	Agricultural Pool
Geoffrey Vanden Heuvel	Agricultural Pool
Terry Catlin	Inland Empire Utilities Agency

WATERMASTER BOARD MEMBERS ABSENT

Ken Willis	West End Consolidated Water Company
Steve Elie	Inland Empire Utilities Agency
Bob Bowcock	Vulcan Materials Company (Calmat Division)

Watermaster Staff Present

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

Watermaster Consultants Present

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

Others Present Who Signed In

Mark Kinsey	Monte Vista Water District
Justin Scott-Coe	Monte Vista Water District
Art Kidman	McCormick, Kidman & Behrens
Rosemary Hoerning	City of Upland
Raul Garibay	City of Pomona
Marty Zvirbulis	Cucamonga Valley Water District
Jo Lynne Russo-Pereyra	Cucamonga Valley Water District
Sheri Rojo	Fontana Water Company
Mohamed El-Amamy	City of Ontario
Scott Burton	City of Ontario
Bob Gluck	City of Ontario
Gil Aldaco	City of Chino
John Mura	City of Chino Hills
Jeff Pierson	Agricultural Pool – Crops
Pete Hall	State of California, CIM
Tom Love	Inland Empire Utilities Agency
Craig Miller	Inland Empire Utilities Agency
Ryan Shaw	Inland Empire Utilities Agency

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Eunice Ulloa	Chino Basin Water Conservation District
David De Jesus	Three Valleys Municipal Water District
Curtis Paxton	Chino Desalter Authority

Chair Kuhn called the Watermaster Board meeting to order at 11:02 a.m.

PLEDGE OF ALLEGIANCE

AGENDA - ADDITIONS/REORDER
Chair Kuhn inquired about the added item for the closed session. Counsel Slater stated the pending law suit between Aqua Capital Management and California Steel Industries needs to be added as a closed session agenda item today. Chair Kuhn noted this addition carried 6 to 0 in favor of adding the item.

I. **CONSENT CALENDAR**

A. **MINUTES**

1. Minutes of the Watermaster Board Meeting held August 25, 2011

Note: Chair Kuhn inquired of legal counsel if the Board could hold off on asking for a motion of the August 25, 2011 minutes in order to use them for reference and discussion in another section of the agenda for clarification purposes under CEO/STAFF REPORT 1. Recharge (Supplemental Water Purchase/Allocation/Storage Agreements Update). Counsel Slater stated this Board could either approve the minutes now or hold them for a separate motion after dialog. Mr. Vanden Heuvel stated he believes they should just be deferred because those minutes are very substantive. It was noted more than one Board member needed clarification on sections of the August 25, 2011 minutes.

Motion by Field second by Lantz, by unanimous vote – Haughey abstained from item A1
Moved to approve Consent Calendar item A1, as presented

2. Minutes of the Watermaster Board Meeting held September 29, 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, 201a 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

Motion by Field second by Vanden Heuvel, by unanimous vote – Lantz and Haughey abstained from item A2
Moved to approve Consent Calendar items A2 and B, as presented

II. **BUSINESS ITEMS**

A. **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, in fact, 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 as there are not a lot of reserves, and money starts to run out around the 1st of January. Ms. Maurizio commented on a table in the corrected staff letter and offered further comment on this matter. Ms. Maurizio stated the good news is that based on the production numbers, now that its finalized, if you compare it to what was being estimated at the time of the budget process, production is almost exactly right on as to what was estimated.

Motion by Vanden Heuvel second by Lantz, by majority vote – Kuhn voted no
Moved to approve deferment of Watermaster 2011/2012 Assessment Package to January 2012, as presented

B. YEAR 3 PURCHASE OF NON-AGRICULTURAL POOL STORED WATER

Mr. Alvarez introduced this item and offered history on this matter. Mr. Alvarez stated this item will be handled through an approval of a Special Assessment next month. 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 four 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 applies to the Appropriators. Mr. Joswiak noted per the Peace Agreement, Attachment G states the first anniversary date of when the first payment was made locks in the payment date for all future payments. 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.

Motion by Vanden Heuvel second by Haughey, by unanimous vote
Moved to approve payment number three to the Non-Agricultural Pool parties from the disposition of water purchased from the Non-Agricultural Pool pursuant to the Peace II Purchase and Sale Agreement, as presented

C. METROPOLITAN WATER DISTRICT REPLENISHMENT WATER POLICY

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. Alvarez stated this is going to be a real challenge and staff is going to have to look at alternative supplies. 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 comments on MWD's financial stability and noted he believes it would be worthwhile to try to get a quantitative estimate; it would benefit 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. 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. 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. Mr. Alvarez stated there is approximately 60,000 acre-feet of water in storage in the basin in the different parties storage accounts, so some of that water can be used to meet this need. However, at the rate of replenishment and as we move forward and start taking water, that stored water is going to be used up in the very near future. Mr. Alvarez stated the estimate right now is that the obligation for over pumping and the blending is probably 10,000 acre-feet; all these numbers are subject to change. Mr. Alvarez stated the additional 40,000 acre-feet would be the desalter operation. Mr. Alvarez stated he believes doing a economic analyses would be beneficial for this project. Mr. Kuhn inquired if staff felt that MWD wants to be paid when they put the water into storage as opposed to when it is pumped out. Mr. Alvarez stated for the level 2 and level 3 programs; the level 1 program may have differences offered. Mr. Vanden Heuvel stated this information really challenges the whole assumption that the Chino Basin Judgment was built on; the ability to allow all of the producers to produce as made sense for them operationally and that the overproduction could always be made up with replenishment water at a discount rate. Mr. Vanden Heuvel stated this is really a significant change for replenishment water. Mr. Vanden Heuvel offered further comment on Watermaster's replenishment obligations in the past, including comments on the recent CURO obligation. Mr. Vanden Heuvel stated MWD spent billions on their storage capacity and now they want us to use it. Theoretically we already had storage capacity, while they want to now use theirs and continue to sell water to us at a much higher rate. Mr. Vanden Heuvel stated he believes Watermaster should try and get something for this and, unfortunately, we probably can't stop it. Mr. Vanden Heuvel stated one of the things we should try and get out of this is a pre agreement, and what it seems that is needed policy wise is a commitment from MWD to lower transportation rates, so that there is other support to other sources. Mr. Vanden Heuvel stated to keep MWD honest we need some level of competition, meaning some other practical way to get water to our basins in southern California, where there can be access to those pipes. Mr. Vanden Heuvel stated it makes no sense to the public to go and double pipe everything cost wise. Mr. Vanden Heuvel stated the price of doing this should be a wheeling rate that's known and not absorbent which actually gives us a practical way to move water from other parts of the state into our basin for our use. Mr. Vanden Heuvel stated this is an offer for somebody to come up with the finer details on this including inquiring if there are other parties in the basin who agree with this concept and would be willing to politically willing to support this. Mr. Kuhn inquired as to the time table on this. Mr. Alvarez stated he believes it is evolving; however, MWD staff is going to be moving things forward through the committee and their then their board will be addressing policy principals in November. Mr. Alvarez stated he does not know exactly where level 1, level 2, or level 3 are going to go through or get held off. Mr. Alvarez stated by the end of the year we will see some adoption of the policy principals along with an agreement which will come back the first half of next year. Mr. Kuhn inquired to Mr. Camacho and Mr. De Jesus for any differences of opinions or dates on this report. Mr. Camacho stated the policy principals come through the committee sometime in November and the hope is that MWD will have some details for the policy principals in the December time frame; it is still unclear but their staff is pushing for that. Mr. Camacho offered further comments on this matter. Mr. De Jesus stated staff was charged by the board to have something for the replenishment program by the end of the year. However, that is not set in concrete and it appears there is time to flush all these issues out. Mr. De Jesus stated if staff can't come back with a collective recommendation based on member agencies, he would be willing to hold that off so that we can gain a more collaborative approach to this; this is very important and will be the new standard. Mr. De Jesus acknowledged that if he does not have a good feeling on this then he will be willing to recommend to MWD staff to hold off on this for an additional few months to flush the issues out. Mr. De Jesus stated he would like to have a meeting with Mr. Alvarez based on what was discussed today. Mr. Vanden Heuvel stated he appreciated Mr. De Jesus being here for this presentation and offering his comments today. Mr. Vanden Heuvel offered final comments on this matter and noted this is a huge policy decision for MWD to make and they are going to need the support of their member agency board representatives. Chair Kuhn stated he is not going to turn this meeting into a workshop and asked for comments from any other members present today on this issue to be included in the

minutes. Mr. Catlin stated he has a question on the local agreements and inquired if there was going to be a discussion today on those. Mr. Alvarez stated those agreements will be covered under the Executive Officers report today.

No motion was made regarding this item.

D. **STATE OF THE BASIN REPORT – WATER QUALITY PRESENTATION (Information Only)** Mr. Alvarez introduced this item. Mr. LeClaire gave the Groundwater Quality – 2010 Stated of the Basin Briefing Part 2 presentation. Mr. LeClaire stated the State of the Basin report is produced every two years pursuant to court order. The primary concerns of the SOB are groundwater levels, storage, subsidence, and water quality. At the last set of pool meetings Mark provided a summary of groundwater levels and storage. Today groundwater quality will be addressed. 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 nitrates 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 §116365(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 §116365(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 (OEHHA). 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. 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, a cleaning and degreasing agent, 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 OEHHA 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 (OEHHA) established a public health goal (PHG) for chromium-6 (hexavalent chromium) of 0.02 micrograms per liter (µg/L). The PHG will contribute to CDPH's development of a primary drinking water standard (maximum contaminant level, MCL) that is specific for chromium-6. Chair Kuhn thanked Mr. LeClaire for the detailed update.

E. GROUNDWATER MODEL UPDATE (For Information Only)

Mr. Wildermuth stated back in July 2011 the Pools and Advisory Committee were presented with this presentation. However, at the Watermaster Board meeting there were timing issues and it was asked that this presentation be delayed until the October meeting. Mr. Wildermuth stated the technical work that he is going to discuss was originally planned in the prior year's budget as part of the safe yield computation. Mr. Wildermuth stated when the Recharge Master Plan was updated last year, one of the items that were to be included was a recommended methodology to calculate safe yield. Mr. Wildermuth stated in Section 3 of that report the methodology was outlined in two parts. The first part was a ten year look back of computation of developed yield and a forward looking calculation for safe yield. Mr. Wildermuth stated due to budget constraints last year, this work was not included completely; only a portion of that work was included on the ten year look back on developed yield. Mr. Wildermuth stated in going forward, and looking at all the things that Watermaster is supposed to do pursuant to the Judgment, Peace Agreement, Peace II Agreement, the Rules & Regulations, and the September 2010 court order authorizing things to move forward for the Recharge Master Plan; this is a slightly expanded version of that scope. Mr. Wildermuth gave the Update to the Chino Basin Groundwater Model and Evaluation of the Basin Dynamics presentation in detail. Mr. Wildermuth thoroughly reviewed the general outline, questions that need to be answered, and the work that has to be done to answer these questions. Mr. Wildermuth discussed the planning process for scenario 1 – recalibration; the planning process for scenario 2 – safe yield and balance; the planning process for scenario 3 – new yield; the planning process for scenario 4 – storage losses; and the planning process scenario 5 – transfers in detail. Mr. Wildermuth reviewed what is needed from the parties and others to complete this work in detail. Mr. Wildermuth noted a workshop needs to be held in the October time frame to discuss the calibration results and planning scenarios. A second workshop needs to be held in the January/February time frame to present planning results. Mr. Vanden Heuvel asked for a slide to be reviewed again. Mr. Vanden Heuvel offered comment on the baseline being revised by removing existing and planned desalters and eliminating reoperation, as if that program never happened. Mr. Wildermuth stated that was correct. Mr. Vanden Heuvel inquired if agricultural would have continued to exist in the southern part of the Chino Basin as Bud Carroll calculated it, and then we would have had a lot more production down there from agricultural than we actually did. Mr. Vanden Heuvel stated he is questioning the validity of this approach to develop new yield because of the backing out of one set of actions as if that was a new action, as revealed in this presentation. Mr. Wildermuth stated this is something that needs to be worked out and he explained in greater details. Mr. Wildermuth stated there is a workshop scheduled today and it is going to be discussed noted potential scenarios to run will be shown also. Mr. Vanden Heuvel stated his concern is that it seems the Judgment was put together the best way we knew how at the time to calculate safe yield which led to the division of the three Pools. Mr. Vanden Heuvel offered further comment on the plan through what the Judgment states. However, there are provisions for recalculating safe yield every single year. Mr. Vanden Heuvel stated he is not 100% clear on the rules of this matter. Mr. Vanden Heuvel stated his concern that the Judgment contemplates that if safe yield has to change it can change, and then there is a mechanism that was agreed to, to allocate that change to amongst the family. New yield is a new term, and it is absolutely valid and important to determine what the new safe yield of the basin is, based on all the scientific foundation that has been done. Mr. Vanden Heuvel offered further comment on this important matter regarding running simulative model scenarios on what is the best way to do this. Mr. Vanden Heuvel stated he is apprehensive of trying to go out and create a new yield because it is going to be based on assumptions; a new safe yield should be developed and then Watermaster should apply the rules as they are written and allocated. Mr. Vanden Heuvel stated trying to differentiate between a change in safe yield and new yield is complex. Counsel Slater stated when this issue was attempted to be addressed in 2000 as part of the Peace Agreement, this exact issue was debated at length and the concept of new yield came about because there was a lack of consensus about how many years need to be included in the operation scenario to recalculate safe yield. Counsel Slater stated there was a time that was picked on a go forward basis to reengage in that effort and activities that were going to be

undertaken by the parties to the Judgment and there needed to be an outlet to reward them if those activities were successful. Counsel Slater stated rather than going through an elaborate and expensive process to re-establish what the safe yield was, that outlet as created in the form of new yield. There was a process under which parties could come forward with technical expertise and demonstrate what that number was. Counsel Slater stated they would then achieve the practical benefit of an increase in safe yield without the more elaborate effort. Counsel Slater stated once the Watermaster goes through the process of recalculating safe yield, they have the ability to reach back and grab what was in the new yield and introduce it into the full on calculation, and then for the next interim period the Watermaster is also able to recalculate this interim quantity being new yield to then assign the benefits. Counsel Slater stated the purpose of it was that we know we need to calculate safe yield and recalculate it, but during the interim parties are spending money and making improvements, and it was designed to reward them for those improvements. It is a part of the Peace Agreement and OBMP, and your stakeholders have a right to receive the benefits if they can prove the existence of it. Mr. Wildermuth offered further comment on the safe yield scenario and the necessity for the parties to approve it. Mr. Wildermuth stated this is actually for the new yield created by the desalter portion and this not going to add yield on top of the yield which was calculated on the prior scenario; it's an internal division of the redistribution of that yield. Counsel Slater stated in the recalculation, if there is going to be a recalculation, you will get to the same place but the concept of new yield was designed to provide a reward and protection for parties who were making investments in the event that a recalculation was not undertaken. Mr. Wildermuth stated there are some several suggestions which will be presented today with this regard at the workshop. Mr. Wildermuth discussed the concept of agricultural development further. Mr. Vanden Heuvel inquired if the purpose of this entire undertaking is to get to a new safe yield number. Mr. Wildermuth stated yes, we are going to recalculate the safe yield and we are going to then say how much of that yield was generated by the desalters themselves because that water is potentially available too as a replenishment source for the desalters. Mr. Wildermuth stated we are not creating water above and beyond this new calculation; it's just an internal redistribution of it. A lengthy discussion regarding this entire matter as it relates to the Appropriators ensued. Chair Kuhn asked that the rest of this discussion be moved to the workshop later today. Mr. Wildermuth finished the Groundwater Model Update presentation.

III. REPORTS/UPDATES

A. WATERMASTER GENERAL LEGAL COUNSEL REPORT

1. October 28 Hearing

Counsel Slater stated there is a hearing scheduled for October 28, 2011 at 10:30 a.m. The main subject will be the CDA Resolution and the approval of that resolution. Counsel Slater stated the court will also be hearing about the Restated Judgment, Watermaster's Annual Report, the State of the Basin Report, and a cleanup item for General Electric for their placement in the Non-Agricultural Pool. Counsel Slater stated the pleading which was filed is available on the back table and there have been no objections filed. Counsel Slater stated the Agricultural Pool requested a special notice to go to some of the Agricultural Pool members who are particularly affected by the Chino Creek Wellfield. Counsel Slater stated Watermaster worked with them and those notices went out as instructed. Counsel Slater stated Mr. Malone will be Watermaster's only live witness, which will be an educational opportunity for the Judge. Counsel Slater stated counsel is currently going through the preparation of testimony and noted counsel is also working with the CDA on their input on Mr. Malone's testimony. Counsel Slater stated the other issue that came up was from the Non-Agricultural Pool on the issue of the Restated Judgment. They have asked that a disclaimer be put on the front of the Restated Judgment to indicate that this is a compilation prepared by Watermaster and has not been approved by any party, and that it is for the convenience of the parties. Counsel Slater stated there is some proposed language for that request on the back table for review. Counsel Slater stated there might be a supplemental filing that will happen next week about all the matters mentioned today. Counsel Slater stated other than the items mentioned; all items are on track for this hearing.

2. Paragraph 31 Appeal
Counsel Slater stated California Steel Industries (CSI) asked for an extension of time to file their reply brief and it was granted by the court. Counsel Slater stated CSI now has until October 28th to file their reply brief. Counsel Slater stated there are settlement discussions taking place and noted more on this subject will be discussed during closed session. Counsel Slater stated Watermaster and the Watermaster Board strongly support settlement. Watermaster counsel and staff has been instructed to do whatever they can to facilitate such a settlement. A discussion regarding the front page language ensued. Counsel Slater stated the parties will be able to see the final language prior to it being finalized and offered further comment on this matter.

Chair Kuhn stated he had questions related to the two legal counsel reports. Chair Kuhn inquired about the filing due in December on the Preemptive Agreements and inquired where we are at on this process. Counsel Slater stated we all have acknowledged a very important filing that is coming in December that relates to the Recharge Master Plan and it is counsels believes by the this Board's action on August 25, 2011, and otherwise repeated direction, we need to include within that a policy approach for Preemptive Replenishment and he believes Mr. Alvarez has convened a meeting among stake holders with this regard.

B. WATERMASTER ENGINEERING REPORT
1. Chino Creek Well Field Extensometer Installation Update
Mr. LeClaire stated the Peace II SEIR and some of the monitoring and mitigation requirements with regard to the potential for subsidence associated particularly with the Chino Creek Wellfield require that an extensometer be built in the vicinity of that Chino Creek Wellfield. Mr. LeClaire stated Wildermuth Environmental is attempting to install that extensometer facility this fiscal year. Mr. LeClaire stated the stage that process is in right now is the technical specifications have been developed and some target properties have been identified that the extensometer might be installed at. Mr. LeClaire offered comment on the target properties. Mr. LeClaire stated it is hoped to secure a piece of property and piggyback onto the well drilling contract that the CDA has right now to drill their last three Chino Creek Desalter Wellfield wells and do a change order there. Mr. LeClaire stated Wildermuth staff is working with the CDA with this regard and there will have to be a cost sharing agreement which will come through the Watermaster process in the future.

C. CEO/STAFF REPORT
1. Recharge (Supplemental Water Purchase/Allocation/Storage Agreements) Update
Mr. Alvarez stated the first report will be on the Preemptive Replenishment Program and this would also be the time where this Board will be revisiting the August 25, 2011 minutes. Mr. Alvarez presented the history of MWD making the replenishment water available for purchase recently and what has transpired at Watermaster since the availability of that water was made in May. Mr. Alvarez stated at the time the MWD Replenishment Program became available, Watermaster ordered 50,000 acre-feet of water. Mr. Alvarez stated MWD limited the water to 225,000 acre-feet and suspended the program at the time the 225,000 acre-feet was delivered to all the parties that were interested in it. Mr. Alvarez stated Watermaster has received a total 33,175.5 acre-feet of the MWD replenishment water, which will be subject to adjustments, and the number will not be finalized for several weeks. Mr. Alvarez stated the breakdown for that water is as follows: through the recharge basins 32,105.5 acre-feet, through direct injection 1,074 acre-feet, and through in lieu 1,466.7 acre-feet was recharged. Mr. Alvarez stated this water purchase was unplanned and therefore there was not budgeted for, and Watermaster needed a way to come up with a way to pay for it. Mr. Alvarez stated the idea was that the water would be split, and that there would be Preemptive Storage Agreements entered into with parties that did not have sufficient operating safe yield to meet their annual production demands. Mr. Alvarez stated two Preemptive Storage Agreements were entered into with Fontana Water Company and Niagara Bottling Company. Mr. Alvarez stated the Preemptive Storage Agreements are with Fontana Water Company (FWC) in the amount of 20,000 acre-feet, and Niagara Bottling Company (NBC) in the amount of 6,000

acre-feet. Mr. Alvarez stated the Preemptive Storage Agreements limit the water for use only for replenishment purposes and cannot be traded or sold. Mr. Alvarez stated the remainder of the water then also needed to be acquired and financed, and there were different approaches looked at with that regard. Mr. Alvarez stated one option was Watermaster taking out a loan. However, that loan agreement after much discussion was not a favored option. The alternative was to look at some other replenishment options whether they were to be Storage Agreements or otherwise. Mr. Alvarez stated the rest of the water has been placed into the ground and will be paid for through three Preemptive Replenishment Agreements with the City of Chino for 1,420 acre-feet of water, and two other agreements are pending with Jurupa Community Services District for approximately 2,300 acre-feet of water and the remainder of the water will be with an Replenishment Agreement with Inland Empire Utilities Agency (IEUA.) Mr. Alvarez stated it is important to note that Watermaster has made timely payments on this and will have the last invoice in shortly, with that payment due on November 9, 2011. Mr. Alvarez stated because of that issue, there was a sense of urgency and everyone worked very diligently at coming up with a novel approach. Watermaster has developed agreements that have explored new ground and are available for moving forward and establishing additional policies; the Board has addressed that and directed Watermaster to proceed in that direction. Mr. Alvarez stated in the last few weeks there have been some discussions about the propriety of moving forward with the Replenishment Agreements and this issue came up at the Appropriative Pool meeting on October 13, 2011, where there were some questions about the agreements. Mr. Alvarez stated Watermaster has received two letters objecting to the process and the appropriateness of Preemptive Replenishment Agreements conceptually. Mr. Alvarez stated one letter was from Monte Vista Water District (MVWD) and yesterday, a second letter was received from Cucamonga Valley Water District (CVWD). Mr. Alvarez stated copies of both the letters as well as a legal counsel memorandum is available on the back table for your information. Mr. Alvarez stated the agreements have been in past meeting packages for review. Mr. Alvarez stated the issue now seems to be the process that was followed; the August 25, 2011 meeting where this Board considered the Replenishment Storage Agreement was looked at. However, because of the issues with losses and the cost associated with that, the Board decided it would be best for Watermaster to come up with a Replenishment Agreement process that would avoid the losses, and a vehicle to accomplish that was worked on. Mr. Alvarez stated Watermaster then worked with parties that were interested in that which was the City of Chino, Jurupa Community Serviced District, and Inland Empire Utilities Agency to enter into those types of agreements. Mr. Alvarez stated one of those agreements has already been executed with the City of Chino. Mr. Alvarez stated the issue with the letters received is the process that was followed, that after the August 25, 2011 Board meeting staff worked on the development of the agreements and then moved forward with negotiating and executing the agreements. Mr. Alvarez stated there are questions now whether that direction was appropriate or not, and is one of the major issues that has been raised. Mr. Alvarez stated the second issue has to do with preemptive replenishment and the whole concept of storage losses. Mr. Alvarez stated there are two representatives present today from both Monte Vista Water District and Cucamonga Valley Water District and since those agencies have provided letters on this topic, they might want to address the Board at this time. Mr. Kinsey stated he has an email Mr. Bowcock sent to some of the Watermaster Board members, and for those who were not on the distribution list he would share the email. Mr. Kinsey stated he believes he heard Mr. Vanden Heuvel earlier in his comments regarding changing Watermaster's focus and recognizing that MWD will change, and acknowledged he agrees with those statements. Mr. Kinsey stated the Appropriators have been talking about looking for alternative supplemental water supplies for several months and how that could be accomplished. Mr. Kinsey stated one of the more difficult things to understand is the Watermaster Board as it relates to its role is under the Judgment; it's different than being a city council member or a water district member. Mr. Kinsey stated the Board is not a policy making body, they are an oversight body that was hired by the Appropriators under the adjudication of the basin to oversee the Judgment and do the day-to-day administrative functions, and make sure that the basin is managed

properly, including protecting the basin long-term. Mr. Kinsey stated the policy making process is through the Pools, with the Advisory Committee essentially making policy, and again, the Board's role is one of oversight. Mr. Kinsey stated this is unique, as people who come here as policy makers have to understand that they have a different role. Mr. Kinsey stated part of what has been going on, part of the question here is, the policy making process. Mr. Kinsey stated in his opinion Watermaster has not followed the normal policy making process. Mr. Kinsey stated the three agreements before this Board today, including legal counsels summary of why the Board thinks it can execute these agreements has not been seen by any person or Pool member until last Thursday, meaning the parties were unable to evaluate the legality, and the question of legality. Mr. Kinsey stated the parties have been unable to evaluate, nor have we been asked to approve those agreements that are before this Board today. Mr. Kinsey stated all three agreements are different and they all have unique attributes, which really brings in the question of losses and of what type of water we are really talking about. Mr. Kinsey stated there has also been a letter distributed by MVWD's legal counsel, and Art Kidman is here as our representation. Mr. Kinsey stated if there are any specific questions related to MVWD's letter, those can be addressed by Mr. Kidman. Mr. Kinsey stated Watermaster's role in storage is to make sure that all storage is carried out in the basin, under a uniform storage agreement. Mr. Kinsey stated he believes those agreements were developed and ultimately approved by the court; there is a uniform process for everyone who wants to store in the Chino Basin which has the same practice and the same rules that they must operate under. Mr. Kinsey stated this is for fairness and consistency. Mr. Kinsey stated he and Mr. Alvarez have had numerous discussions about what constitutes stored water, and from those discussions it is his understanding that Watermaster's statement of stored water is that stored water is water that is accounted for and tracked in the basin, and that has a specific attended use and user for the water. Mr. Kinsey stated the agreements before this Board quantify water and track it through the process of usage, so it really is stored water. Mr. Kinsey stated its additional water that's been added to the basin. Mr. Kinsey stated each agency is purchasing a quantifiable quantity of water, and the usage of that water will be tracked until that stored water is fully utilized for various purposes. Mr. Kinsey stated the agreements that the Pools and Advisory Committee have seen were originally called Preemptive Replenishment Storage Agreements. The terms were until the Peace Agreement was over, and there were storage losses going to be assessed; those were the agreements that the Pools have acted on. Mr. Kinsey stated in August the Advisory Committee forwarded to the Board for consideration, Storage Agreements with IEUA and other municipal water districts as a place to park Preemptive Replenishment Agreements; that's what the Advisory Committee, as a policy making body, have forwarded to the Board. Mr. Kinsey stated the agreements before this Board, again none of the Pools nor the Advisory Committee have seen them. Mr. Kinsey reviewed the City of Chino's Preemptive Replenishment Agreement almost word for word for clarification of his point. Mr. Kinsey stated under the City of Chino agreement the only use for Chino's water is desalter replenishment offset. Mr. Kinsey reviewed Jurupa Community Services District's Preemptive Replenishment Agreement word for word and clearly pointed out the differences between the City of Chino's agreement and JCSD's agreement. He noted the JCSD agreement is a draft agreement and has not been signed. Mr. Kinsey reviewed Inland Empire Utilities Agency's Agreement and noted it also differs from the two previous agreements. Mr. Kinsey reviewed the IEUA agreement in detail and reminded the Board of IEUA's concerns regarding entering into a Storage Agreement. They did not want it to be a stranded asset that they could not sell if the parties were not purchasing it for desalter replenishment purposes. Mr. Kinsey offered further comment on the vast differences of the three presented agreements including losses, uses for the water, and the sale of the water. Mr. Kinsey stated part of the premise of Watermaster's responsibility is uniform Storage Agreements. Mr. Kinsey stated if the parties determine through a consensus process that the legal basis for not assigning losses to this water is appropriate the only way policy is made is through the consensus process though the Pool's, Advisory Committee, and, ultimately, to the Watermaster Board. Mr. Kinsey stated a uniform agreement needs to be developed so that everyone's water that they purchased would be treated the same; the

three agreements before us, based on our legal counsel review, are all different in terms of how they treat the water and in terms of flexibility of use, as well as whether or not it is going to be assignable to storage or not. Mr. Kinsey stated the concern here is there are agreements here that are different, and have not gone through the Watermaster process. Mr. Kinsey offered comment on the history of IEUA's willingness to step up and enter into a Storage Agreement with Watermaster. Mr. Kinsey stated Watermaster was directed to negotiate a Storage Agreement with IEUA. Mr. Kinsey offered comment on other agencies willingness to assist in various ways. Mr. Kinsey stated these items were discussed only at the Board level in terms of request for direction to evaluate whether or not Watermaster could develop this program, where we don't count the water as stored, therefore, we don't assess losses to it. Mr. Kinsey stated when you look at the minutes, he believes the intent was to develop the concept and run it through the Watermaster process is what the minutes reflect as one of the discussion items at that time; this has never been run through the process. Mr. Kinsey stated when you read the letters presented, they state that this has not been run through the process. Mr. Kinsey stated Watermaster has a long established process of working things through it to reach successful conclusion, and they require Pool and Advisory Committee input, and ultimately, recommendation to the Board. Mr. Kinsey stated what has been represented today is an accurate representation of both the differences in the agreements, that have not been reviewed, or not even been seen until last Thursday by the parties. What the parties would like to see happen is to have the Board recommend that this be taken back through the entire Watermaster process. Mr. Kinsey offered final comments on the agreement matter. Mr. Kinsey stated the second concern is the invoice coming in, and the bill being due at approximately $3.6M. Mr. Kinsey stated there are a couple of solutions to this matter which have been discussed. Mr. Kinsey offered comment on the various parties who have offered to assist through bridge funding for those monies due. Mr. Kinsey stated he believes some of the Appropriators are willing to step up and purchase the water and hold it until this process moves forward and an ultimate decision is made. Mr. Kinsey stated he believes there is a solution to the urgency of having to generate money to pay the bill, and the only way we have been told to do that is to authorize signature of these agreements. Chair Kuhn inquired to legal counsel if they had any answers or comments to what has been presented. Counsel Slater stated having read the letters, he does not think counsel disagrees with the citation of authorities that are applicable to stored water; this is precisely why we chose a different vehicle. Counsel Slater stated replenishment water is defined differently under the Judgment, and defined differently in the Peace Agreement, and stored water is a defined term which requires an agreement, and it carries certain rights and responsibilities. This Board is obliged as a matter of contract in a court order to assess losses against stored water. Counsel Slater stated there is no such provision, no uniform requirement that applies to Watermaster's dealings with the procurement of replenishment water; you have discretion, you have the ability to carry out the Judgment, you have a duty and a responsibility as it relates to replenishment water. The agreements were crafted to discharge Board responsibility and procurement of replenishment water. Counsel Slater stated he does not disagree with the comments of Mr. Kinsey as they relate to stored water. However, we are trying to go about this in a different way, which was what was described on August 25th, and noted he will withhold comments on process. Mr. Kinsey offered comment regarding future replenishment obligations, and noted this is nothing more than pre-purchase replenishment water for future desalter replenishment obligation. Mr. Kinsey offered comment on what MWD is doing presently with their water. Mr. Kinsey stated the real point here is we have a process to address legal issues, and that is not going to be done here today; we don't want to take this item to court. Mr. Kinsey stated all that is being asked for is that this Board allow this process, the legal underpinnings of what's proposed, and the agreements to move forward through the entire Watermaster process so that the Pools and Advisory Committee can make recommendations to the Board on them. Mr. Kinsey stated the parties have come up with a solution for what we have heard is the issue, which is, the bills are due. Mr. Kinsey stated this is frustrating because we have been asking for this information for a long time, and we have been asking for more detail on the legal basis for what Watermaster is trying to

accomplish, and again, we just got it last Thursday. Chair Kuhn inquired to Mr. Kinsey if he was ever against purchasing the water for replenishment of the desalters. Mr. Kinsey stated absolutely not. Mr. Kinsey stated we believed there was a better and different route to follow to purchase replenishment water than what has been proposed. Mr. Kinsey stated it was heard today that one of the main issues is the revenue stream necessary to do this. Mr. Kinsey offered comment on what was suggested by Mr. Alvarez in the past to pay for this water, including proposals made by other parties to assist in this endeavor. Chair Kuhn stated at the start of this process it was believed it would be very simple thing to work out with IEUA. However, that is not how it turned out, and now the process has changed over the last three months, many times over. Chair Kuhn noted his concern today is that there is a bill due and the Board has given Mr. Alvarez very clear instructions as to what we wanted staff to do, and somehow this Board wants to make sure that bill gets paid on the 9th. Chair Kuhn asked for comments from Mr. Alvarez. Mr. Alvarez stated the process that was followed has morphed, and there is no disputing that. Mr. Alvarez gave a detailed history of this matter, and noted in May this item was taken to the Advisory Committee and Watermaster Board, and then brought to the Pools in June. Mr. Alvarez reviewed the financial aspects that have transpired over the months to pay for the replenishment water. Mr. Alvarez described the presented agreements and noted that when it comes to Watermaster it is to be used for basin augmentation, and then will ultimately go to offset desalter replenishment. However, it is under the full control of the Watermaster at all times and for those reasons the water was not subject to basin losses. Chair Kuhn asked if the water being controlled by the Watermaster was one of the issues. Mr. Kinsey stated Watermaster under the Judgment is designed to oversee people storing water in the basin and making sure that the people storing water follow the rules. Mr. Kinsey stated Watermaster is now saying, whether you want to call this water stored water or replenishment water, or whatever you want to call it, the question is, who oversees Watermaster in carrying out the task. Chair Kuhn stated he needed to understand clearly that this water was originally purchased solely for the replenishment of the desalters, and yet he is hearing there are different agreements stating different call outs for the water. Counsel Slater stated there was a legal counsel memorandum which was focused on Watermaster's ability to execute a Replenishment Agreement, and the circumstances under which a Replenishment Agreement would be consistent with the Judgment. Counsel Slater stated there are three agreements, two which should be, at his last review, identical, and if they are not, then he needs to see the differences. Counsel Slater stated that JCSD and the City of Chino's arrangements were, in counsel's belief identical, and then there was an IEUA arrangement. Chair Kuhn acknowledged that the IEUA document would be different. Counsel Slater stated they were intended to be that way and he is not oppugning about anything else that was discussed or process. Counsel Slater stated, as it relates to the Replenishment Agreement, there is section 5.1 of the Peace Agreement which extends Watermaster a power which exists already under the Judgment to execute Replenishment Agreements, which have the duel objective of quantity and quality, and maximum flexibility to achieve those objectives. Counsel Slater stated the protection to the parties to the Judgment, and the Appropriators in particular, are in the form of the assessment and how and when the assessment occurs. Counsel Slater stated we have a known, stated, predicted, scheduled, and ordered future replenishment obligation that is attributable to desalter production; this is not a vague unknown replenishment obligation. Counsel Slater stated the question is whether Watermaster, in exercising its dual authority of going to buy water at a lowest possible cost, under all the circumstances have the discretion to buy replenishment water and tender it to the basin in advance of the actual replenishment obligation occurring, or whether it was required to wait until afterwards. Counsel Slater stated it is the opinion of counsel that so long as the assessment provisions in the Pooling Plans are not being violated, without imposing a new or different obligation, that Watermaster had flexibility in executing such an agreement, provided that material harm did not occur to the basin; that was our standard. Counsel Slater stated what is being rappelled with are those three agreements. Counsel Slater stated for the Chino Agreement there is a prospective obligation that will be borne out by all of the Appropriators. Counsel Slater stated section 6.2 of the Peace II Agreement

goes through a hierarchy and states how that obligation may be met in the future. The City of Chino is trying to pay now to cause an actual physical replenishment to occur to offset that. Counsel Slater stated Mr. Kinsey is raising a fairness and equity issue, which he raised on August 25th and other meetings that counsel has been present at. Counsel Slater stated Mr. Kinsey was aware of the problem, the storm arising, and had gone out and may have spent money and put that water into a Storage Agreement, and then in waiting for the day that the debt was going to come due they are paying and being assessed a loss against the water in that account. Counsel Slater stated they raise a fairness equity issue, that now someone else that comes along who did not do that gets more favorable treatment under the circumstances. Counsel Slater stated that is a policy issue for you and not a legal requirement that you assess the losses; this bears on your decision as to how you wish to approach it. We also said that there needed to be overarching rules brought back to you that would be embedded in a recharge master planning effort for the go forward, which was your second motion on August 25th. Mr. Kinsey stated we are struggling with the process in the best way to move this forward and everybody realizes we have a pending replenishment obligation, not just for the desalters but for the parties who overproduce in basin. Mr. Kinsey offered further comment on this matter, and noted that logic and wisdom do not negate contracts and they don't negate processes that should be followed. Mr. Kinsey stated he believes a perfectly good solution has been come up with to address this area in a cooperative manner, to allow the documents and legal counsels recommendation to go through the process, and there is a clear commitment to pay the bill and to develop a program to allow the parities to go out and acquire water in the most economical means to address future replenishment obligations. Chair Kuhn offered comment on Mr. Kinsey's comments regarding paying the bill for this water. Mr. Kinsey stated there is a bill due and there is not a mechanism in place to pay for that bill yet. Mr. Kinsey offered comment on Watermaster's reserves. Mr. Kinsey stated MVWD may be able to pay the bill until the contracts have been worked through. However, that water ends up being held, as long as MVWD is reimbursed for our costs, we are fine with that. Mr. Kinsey offered comment on the cost to incur this additional water. However, MVWD is willing to front some of the money to pay the bill to allow us to work through the process. Chair Kuhn noted his concerns with getting the 33,000 acre-feet dedicated to the replenishment of the desalters. Mr. Vanden Heuvel asked if Cucamonga Valley Water District had any comments. Mr. Zvirbulis stated Mr. Kinsey did a good job of explaining this matter. Mr. Zvirbulis stated Cucamonga Valley Water District is one of those agencies that has been proactive and saw the storm coming. Mr. Zvirbulis offered further commented on the CVWD water baking program. Mr. Zvirbulis stated these conversations started in May and quickly got away from us. Mr. Zvirbulis offered comment on the role Watermaster needs to play to provide water to meet all the needs that are in the basin. Mr. Zvirbulis stated he believes it is Watermaster's role to help solve these water issues and facilitate matters accordingly. Mr. Kidman stated he is legal counsel for Monte Vista Water District. Mr. Kidman stated he is here to review the three proposed agreements, and asked that the Board and parties put aside any differences or concurrences with the agreements. The issue today is that this has been done in a very rush-rush, bordering on arbitrary basis without participation as is not only the tradition, but it is required in the Chino Basin. Mr. Kidman stated no one knows if the parties are ever going to be in agreement on how these agreements turned out. Mr. Kidman stated he has not seen these agreements, despite several requests, until Monday afternoon this week at 3:45 p.m., and that is not enough time to evaluate an important decision if this is in the best interest of all. Mr. Kidman stated the Watermaster and everyone here are governed by a stipulated Judgment which all the members of the family agreed to. Mr. Kidman offered comment on the last fifteen years of working with Watermaster, and the rules that it is lead by and has agreed to. Mr. Kidman offered comment on MWD's present position on water. Mr. Kidman stated he believes Mr. Kinsey has a way to pay these bills, taking advantage of the water you already have in the ground, but work through the Watermaster process so that you all have the normal consensus that we work by in the Chino Basin. Chair Kuhn inquired if Mr. Love has this item to go before the IEUA Board in the future. Mr. Love stated it is on the November 2nd agenda. Mr. Catlin stated it is planned to come before the Board.

However, now that the Advisory Committee meeting met last Thursday and correspondence has been seen, as a Board member he has some reservation into moving into an agreement where there is controversy. IEUA has tasked Jean Cihigoyenetche to look into the communications that have been come across on this issue and to encourage him to talk to counsels of the various parties about what the controversy is about. Mr. Catlin stated he wants to make sure that if IEUA enters into an agreement that it is not going to be challenged and there are not going to be issues with it. There are reservations now going into next week's IEUA board meeting addressing this agreement, unless Jean Cihigoyenetche can assure me in advance of that. Mr. Vanden Heuvel stated it is important to look at what we are doing and there are a many things he would like to respond to. Mr. Vanden Heuvel stated Watermaster buys replenishment water all the time and that decision by Watermaster is not something that goes through the Pool process; that is what has been done since the beginning of the Judgment. Mr. Vanden Heuvel stated what is different in this case is that we are purchasing in advance rather than in arrears. Mr. Vanden Heuvel stated in the August 25th minutes Ms. Lantz specifically asked about this matter, and he read a section of the provided August 25, 2011 minutes regarding the pending contract and motions made at that Board meeting. Mr. Vanden Heuvel stated it was his understanding that this Board was giving Watermaster the authorization to move ahead with the replenishment purchase. Mr. Vanden Heuvel offered comment on the loss issue. Mr. Vanden Heuvel stated he has been on this Board since the beginning, and he does not recall anything ever coming to this Board that was less than a mandate, except for the July meeting on the Agricultural legal budget. Mr. Vanden Heuvel stated he has also received phone calls and this is an issue that clearly divided the Appropriative Pool community with different points of view. Mr. Vanden Heuvel stated he heard more than once, the message from several people that this needed to be done as inexpensively as possible. Mr. Vanden Heuvel offered comment on the agencies that had, and are planning ahead, and possible causing them to pay double. Mr. Vanden Heuvel stated what this Board did was to authorize staff to go ahead and purchase this water as preemptive replenishment based on the advice from counsel that the protection for the Pools was in the timing of the assessment, and as long as it wasn't an assessment that was triggered by this activity and there wasn't anything in the document that prohibited us from doing that, based on that the Board gave direction and we have been carrying this matter forward. Mr. Vanden Heuvel offered comment on the Board discretion in this matter and noted there was discretion because this was not a mandate which then allowed that discretion. Mr. Vanden Heuvel referenced page 22 Article 38b of the Judgment regarding committee review. Mr. Vanden Heuvel read the referenced material from the Judgment. Mr. Vanden Heuvel inquired if what the Board did was it within the scope of the Advisory Committee recommendation, and noted that it is a close call and offered further comment on changing the provided Preemptive replenishment Agreement, which was converted into a Storage Agreement. By making it a Storage Agreement we were able to not apply the uniform loss factor. Mr. Vanden Heuvel inquired if that was in the scope of the Advisory Committee recommendation or not; clearly the Judgment anticipates that the Board can make decisions outside that scope with notice. Mr. Vanden Heuvel stated maybe this was outside the scope of the Advisory committee recommendation, and so we would have to give notice to them, but we already have a signed agreement. Mr. Vanden Heuvel commented on the dates of notices due to upcoming holiday schedules, and it could be noted that notice was actually given on August 25, 2011 when action was taken. Mr. Vanden Heuvel stated he would like legal and Board comments at this time. Mr. Kinsey stated the minutes for the August 25th meeting were very long and asked Mr. Vanden Heuvel to point out the clear direction of a motion. Ms. Lantz stated on page 8, and Chair Kuhn read the motion off the minutes. Mr. Kinsey offered comment on both the motions made with this regard and read the second motion from the August 25th Board minutes, noting there were clearly two separate actions. Mr. Kinsey stated the second motion was regarding the development of a Preemptive Replenishment Agreement and that is the item before the Board today, so technically staff recommendation was not to authorize the completion of a Preemptive Replenishment Agreement; it is very different. Mr. Kinsey stated one is the approval of a standard Storage Agreement and the other one was recommendation to allow

counsel and staff to develop a Preemptive Replenishment Agreement. This Board did not authorize the Preemptive Replenishment Agreement, you authorized a Preemptive Replenishment Storage Agreement. Counsel Slater stated he agrees with the applicable provision in Paragraph 38, and the key question is whether the Board action on August 25th was within the scope of the authorization of from the Advisory Committee. Counsel Slater stated the agreement, in counsel's opinion, was edited and it eliminated a material provision, which is losses, and it converted the form of the agreement from a uniform Storage Agreement into a Replenishment Agreement. Counsel Slater stated as he does not like to have to give this Board this advice, counsel thinks it is sufficiently different, that it would warrant notice to the Advisory Committee. Counsel Slater stated the consequence in providing notice does not invalidate unnecessarily the punitive agreement which has been executed; what the Advisory Committee will do is only known to them unless they would come up with a mandate to provide a different direction, the agreement remains valid and there is no problem with the agreement. Counsel Slater stated if the Advisory Committee however were to adopt an 80% mandate, then really we are talking about either the Advisory Committee or the Board seeking judicial relief. Counsel Slater stated he knows of no other way to cut through the procedure set for in the Judgment other than on the basis of the urgency in the payment due. If the Board wanted to seek judicial relief and further authorization – you could do that. Counsel Slater stated the court could also ask what the opinion of the Advisory Committee is, and what the formal action is based upon what it is you decided. Counsel Slater stated in this instance he thinks the provisions of the Judgment states the Advisory Committee gets notice. Chair Kuhn asked for an example of a motion that this Board should present at this point. Counsel Slater stated he believes that the Board acted unanimously on August 25, 2011, and he believes it was the Board's direction to staff and counsel to prepare a Preemptive Replenishment Agreement, which was consistent with the directives and discussions that the Board had on August 25, 2011, and those are in the minutes. Counsel Slater stated the motion should indicate that the Board did in fact instruct counsel to prepare an agreement and authorize staff to execute it, but for avoidance of doubt, that this is as to whether it was within the scope. It would be sent to the Advisory Committee for advice and comment, and with that the Board intends to proceed until informed otherwise by the Advisory Committee that the agreements are valid and that staff has authorization to proceed. Chair Kuhn asked for a motion. Chair Kuhn stated we are going to come up with a payment and moving the process forward to the Advisory Committee. Mr. Vanden Heuvel stated he does not know about payment because that is not the motion. Mr. Vanden Heuvel stated the motion is to give the Advisory Committee notice. A discussion regarding the motion and payment ensued. Mr. Vanden Heuvel stated the Judgment requires that if the Board makes a decision we have the discretion to make that decision, but if we make a decision out of the scope of what the Advisory Committee sent us, we are obligated to give then a 30 day notice of our final acting. Mr. Vanden Heuvel stated the motion is to then give them that notice. Counsel Slater stated the motion is to give them notice of this Board's action, the rationale for that action, and to ask them for advice and consent; they are not compelled to do anything, or they can do nothing, including something different. Counsel Slater stated this Board is not compelled to accept their recommendation – you are compelled to give then notice. Counsel Slater stated given the circumstances and the issue of the next Board meeting date, you have identified an opportunity for a Special Board meeting in the month of November. Mr. Vanden Heuvel stated to be clear the motion is to give them notice. Ms. Lantz stated the motion is what Counsel Slater stated and what Mr. Haughey agreed to be for his first. Ms. Lantz stated the motion, in her understanding, was the giving notice part, and to also continue with executing the agreements and moving forward with the payment. Ms. Lantz stated she did not understand that it was to be putting everything on hold. Counsel Slater stated his advice was that the execution of the agreement could always be undone by action of the Advisory Committee under the Judgment. However, note that the Board has the authority to move forward subject to the fact that they recognize that a mandate override still exists in the power of the Advisory Committee. Counsel Slater stated there are things that need to be done and staff needs to move forward – we don't want to be at a standstill. Counsel Slater stated we can continue to

move forward, recognizing the prospect that the Advisory Committee could meet and provide a mandate direction that would have to be dealt with at the November meeting. Counsel Slater stated with regard to spending money that is left up to staff if cash is available. Ms. Lantz stated she needs clarification for whenever the next meeting is, regarding the differences in the JCSD and City of Chino contracts from a review either from legal or Watermaster staff. Ms. Lantz noted she was clear from the direction given at the August meeting, which may or may not have exceeded this Board's authority, that those agreements were identical, and that they would not need to be reviewed by the Board a second time. However, with today's discussions it seems prudent to have a thorough review. Ms. Lantz offered further comment on the IEUA agreement, which is really a different type of agreement. Counsel Slater stated absolutely that can be accomplished and noted he was puzzled by the fact that there was an identifiable discrepancy because they were intended to be identical. Mr. Vanden Heuvel stated the action and motion that is before us is to give notice that such intended action shall be served on the Advisory Committee and its members at least 30 days before the Watermaster Board meeting, at which the action is finally authorized. Mr. Vanden Heuvel stated he is concerned if the City of Chino has paid Watermaster. However, an agreement has been executed that this Board believes it authorized on August 25, 2011, and that is why we acted in good faith. Mr. Vanden Heuvel stated this Board acted, at that time, as if we were acting within the scope of the Advisory Committee action. Mr. Vanden Heuvel stated if we believed we were not, then this would have been a trigger and now it's being brought to our attention through this exchange of letters. Mr. Vanden Heuvel stated does this actually delay our ability to authorize anything. Counsel Slater stated this would not be the first instance in history when an agreement was executed and then ultimately rescinded for a reason related to process. Counsel Slater stated the Board's and staff's intention following the meeting on August 25th was that staff and counsel were acting consistent with the direction of the Board. Counsel Slater stated, while he remains solidly in support of the legality of the form of the Replenishment Agreement, in carrying out your will with that regard, and having a strong policy and legal foundation – there stands a process question that could ultimately drive us several months to go a resolution. Counsel Slater stated if Watermaster provides the notice, he can say with confidence that the matter is done at the end of November when this Board reconvenes to take final action. Counsel Slater stated if we fail to provide the notice there will be a hangover issue that will chase us into the New Year and could further disrupt your administration of Watermaster. Mr. Vanden Heuvel stated before the vote is taken, we still have the issue of this bill. Mr. Vanden Heuvel inquired about the bill from IEUA to Watermaster, or does Watermaster pay MWD directory. Mr. Alvarez stated the bills are from IEUA to Watermaster. Mr. Vanden Heuvel inquired as to the penalty if the bill is not paid on time. Mr. Joswiak stated 2% of the total bill. Mr. Vanden Heuvel stated it appears that Watermaster is not going to have the money to pay the bill, and whatever the penalty is the penalty is. Mr. Vanden Heuvel offered comment on the various loans presented over the last several months. Mr. Vanden Heuvel stated we are going to follow the letter of the law here and go ahead and pass this motion. However, we will then need to have a discussion about what we do with this bill. Chair Kuhn stated we can discuss what needs to be done with the bill as soon as the motion on the table is voted on. Ms. Lantz inquired if the action taken by this Board on August 25th actually did give notice of sorts. Counsel Slater stated the action itself that the Board took on August 25th was a public meeting, and there were people who were present and are in the audience now who hear what the Board action was. That is definitely a form of notice. Unfortunately, the Judgment Rules and Regulations provide that the notice of the action for purposes of service, the publication of the minutes and the adoption of the minutes, means we cannot rely on the normal customary practice of the minutes and provide no other form of direction written notice or substitution thereof. Chair Kuhn asked the recording secretary for a roll call vote. Ms. Molino called a roll call vote for the members and alternates present today representing the Watermaster Board on the motion provided. Chair Kuhn noted the motion carries with one abstention.

Motion by Haughey second by Vanden Heuvel, by unanimous roll call vote – Catlin abstained
Moved to formally recognize that the Watermaster Board acted unanimously on August 25, 2011, and it was the Watermaster Board's direction to Watermaster staff and to general counsel to prepare a Preemptive Replenishment Agreement which was consistent with the direction with the directives and the discussion that the Watermaster Board had on August 25, 2011 which are stated in the minutes, and the motion for the MWD Replenishment Water Policy is the Watermaster Board did instruct counsel to prepare an Agreement and authorized staff to execute it and for avoidance of doubt, as to if this was within the scope, that this matter be sent to the Advisory Committee for advice/comment and the Watermaster Board intends to proceed until informed otherwise by the Advisory Committee that the agreements are valid and that Watermaster staff has authorization to proceed, as presented

Chair Kuhn stated before we go on to the next subject of the payment, a motion for the August 25, 2011 minutes is now called for.

Motion by Field second by Lantz, by unanimous vote – Haughey abstained from item A1
Moved to approve the August 25, 2011 Watermaster Board meeting minutes, as presented

Chair Kuhn inquired as to the payment of the bill, and noted he is still not clear on the Board's direction except that on November 9, 2011 Watermaster owes approximately $3.5M to IEUA, and noted there was sincerity in Mr. Kinsey's intent that the Appropriators are willing to pick up at least a portion of that bill. Chair Kuhn inquired to Mr. Kinsey when will this Board know how much of that bill could be paid MWD. Mr. Kinsey stated what you are doing is not running the agreements through the process; you are giving the Advisory Committee notice that this Board intends to take a direction consistent to what they gave you. Mr. Kinsey offered further comment on this matter and noted what the Board authorized was the standard Storage Agreement, and it has preemptive replenishment storage agreement on it; that was staff recommendation. Mr. Kinsey stated they were not the agreements that ultimately are in the process being signed by the parties. Mr. Kinsey stated he thinks the Appropriators can talk about this, and to address Mr. Vanden Heuvel's point about it not getting paid in a timely manner, the penalty gets passed to the Appropriators anyway. Chair Kuhn stated the Appropriators don't like loans so I am assuming you don't want to pay interest; are you going to help pay or not. Mr. Kinsey stated we will talk about it and inquired about the 2% interest. A discussion regarding the interest rate ensued. Chair Kuhn stated what he is hearing is the Appropriators will come up with something and report that back to Watermaster staff. A final discussion regarding the financial matters ensued. Mr. Alvarez stated as we move through this process there will be resolution within a month, either the Advisory Committee is going basically reject the agreements or the agreements stand as approved. Mr. Alvarez stated in the interim, there are a couple of weeks where this payment is going to be subject to some uncertainty which can be handled a couple of ways, and the easiest way if it is acceptable to IEUA, is that Watermaster enter into some kind of an agreement with the understanding that this is the process and we think this is the ultimate resolution, and that payment instead of being forthcoming on November 9th, it may be forthcoming twenty-five days later. Mr. Alvarez stated another approach would be to sit down with some of the Appropriators who have indicated their willingness to help finance this through a possible bridge loan. Mr. Alvarez stated the last alternative is that Watermaster gets a bill and we don't pay it within the 30 days, and then we are subject to the 2% penalty. Mr. Alvarez stated there are several options and that outline is what staff will be basically following based on the direction being taken today. Chair Kuhn stated it appears that penalty would be $60,000 a month or $750,000 annually. Mr. Alvarez stated in two weeks the Pools meet and this will be brought forward to them, and then to the Advisory Committee, so then in three weeks a special meeting of the Board should be scheduled. Chair Kuhn stated it should be 26 days from today. Mr. Catlin offered comment on the harsh penalty by IEUA, time constraints and a possible bridge finance option under the business terms already discussed. Mr. Love stated he does not have the authority to waive the 2% and noted that is

up to the IEUA Board. A discussion regarding a bridge agreement with IEUA ensued. Mr. Love stated he is willing to bring something to the IEUA Board for consideration next week. Ms. Rojo offered comment on IEUA's financial policies in detail. Mr. Vanden Heuvel stated he is curious if Watermaster is authorized, absent of any official action from anyone, to enter into any loan agreements. Chair Kuhn stated that is exactly what the Advisory Committee was trying to avoid. Mr. Vanden Heuvel inquired into the legal basis to enter into loan agreements. Counsel Slater stated Watermaster has limitations on its borrowing capacity that come from the Judgment, and if we are going to discuss a loan agreement it will be another discussion or a special meeting. Mr. Vanden Heuvel stated by this action, this really leaves us at the mercy of IEUA and we are probably ordered by the Judge to pay our bills too, so we are really between a rock and a hard place. A final discussion regarding this financial matter ensued.

2. Archibald South Plume Update
Mr. Alvarez stated this was one of the items in the Watermaster work plan this year in terms of doing some better quantification. Mr. Alvarez stated staff has been instructed to go out and do some additional water quality samples and some of those results are in; there is an exhibit map shown on the display screen. Mr. Alvarez reviewed the map where the testing locations were and reviewed the water quality test results, noting the results were provided to the Regional Water Quality Control Board. Mr. Alvarez stated as part of this program there are ten additional locations that were identified and are mostly on the westerly side of the plume, where most of the sampling was being performed. Mr. Alvarez commented on the locations that were non-accessible at the time of testing, and noted staff is working with the Agricultural Pool chair on some of these locations to obtain access, and with the residents at the locations that people were not available on that particular date and time.

3. Letter From Regional Water Quality Control Board
Mr. Alvarez stated this item came up subsequently to the meeting package being sent out and there are copies of the Regional Water Quality Control Board letter regarding this matter available on the back table. Mr. Alvarez stated this is a good news item to report today. Mr. Alvarez stated Watermaster received a letter from the Regional Water Quality Control Board, which was addressed to both Chino Basin Watermaster and Inland Empire Utilities Agency. Mr. Alvarez stated the letter confirmed that Hydraulic Control will be achieved with the completion of the Chino Creek Wellfield, the implication being that in 2014 when all of those wells are completed and in operation, it will effectively reduce all losses from the basin. Mr. Alvarez stated there will no longer be any basin loss factors. At that time staff will have to go back and amend the Peace Agreements and the Judgment to recognize that any Storage Agreements specify there are no further basin losses as long as the system is in place and operating. Mr. Alvarez stated there are some conditions noted in the letter, and the last pending item is regarding the required monitoring. Mr. Alvarez stated the definition of what the monitoring wells ultimately will look like will possibly be 3 monitoring wells or 10 monitoring wells, or whatever the number is when it's finished because this is not finalized. Mr. Alvarez stated eventually this will require staff going back and revisiting all of the Agreements and the Judgment, which will specifically preclude having Storage Agreements without a loss factors. Chair Jeske offered comment on the no loss factors and this matter. Mr. Alvarez stated this letter states that based on all of the analytical effort that has been done to date, if the proposed wells, which are currently being drilled and will be completed by 2014, produce at less than 100%, or even as low as 60% of their anticipated production, we will still achieve Hydraulic Control.

IV. INFORMATION

1. Cash Disbursements for September 2011
No comment was made regarding this item.

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

V. BOARD MEMBER COMMENTS

Mr. Vanden Heuvel stated, in reading the minutes of the August 25th meeting, there are Appropriators that have been accumulating water in anticipation of obligations that they would have for the Desalter, and it looks like we have two Appropriators who are going to put their name on some of this water that we were able to get from MWD. Mr. Vanden Heuvel stated there was reference from both himself and at least one other colleague on the Board that we would really like to see staff and the parties, work toward an opportunity for the Appropriators who have stored water to dedicate it for these purposes to Watermaster and thereby stop the accumulation of losses. Mr. Vandenheuvel stated we need find the most efficient way possible to secure water and we are on a path to eliminating these storage losses through the construction of the expansion of the desalter wellfield. Mr. Vanden Heuvel noted this is still years away and there will still be water lost during that time, and if there is a way to do that differently and legally, then we should pursue that. Mr. Vanden Heuvel further stated he would like to keep that on the forefront and encourage the Appropriators to bring forward an initiative like that.

Chair Kuhn stated he has asked Mr. Alvarez to put together a Personnel Committee meeting for next week. Chair Kuhn stated Mr. Alvarez has been here for 6 months and this Board would like to meet and re-evaluate where we are at.

VI. OTHER BUSINESS

No comment was made regarding this item.

The regular open Watermaster Board meeting was convened to hold its confidential session at 1:46 p.m.

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

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

1. Chino Airport Plume
2. Paragraph 31 Litigation

(Added during the Additions/Reorder portion of the agenda)

3. Pending Law Suit Between Aqua Capital Management and California Steel Industries

The confidential session concluded at 2:10 p.m.

There was no reportable action from the confidential session.

VIII. FUTURE MEETINGS

~~Wednesday, October 26, 2011~~	~~9:00 a.m.~~	~~85/15 Rule Workshop @ CBWM CANCELLED~~
Thursday, October 27, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, October 27, 2011	2:00 p.m.	2012 Groundwater Model Workshop/Planning Assumptions @ CBWM
Friday, October 28, 2011	10:30 a.m.	Watermaster Court Hearing @ Chino Court
Thursday, November 10, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, November 10, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, November 10, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, November 17, 2011	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, November 17, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM
* Thursday, November 17, 2011	11:00 a.m.	Watermaster Board Meeting @ CBWM
Thursday, December 8, 2011	9:00 a.m.	Appropriative Pool Meeting @ CBWM
Thursday, December 8, 2011	11:00 a.m.	Non-Agricultural Pool Conference Call Meeting
Thursday, December 8, 2011	1:00 p.m.	Agricultural Pool Meeting @ CBWM
Thursday, December 15, 2011	8:00 a.m.	IEUA DYY Meeting @ CBWM
Thursday, December 15, 2011	9:00 a.m.	Advisory Committee Meeting @ CBWM

PERS00317

Minutes Watermaster Board Meeting October 27, 2011

Thursday, December 22, 2011 11:00 a.m. Watermaster Board Meeting @ CBWM

* Note: Watermaster Board meeting date change due to the Thanksgiving holiday

The Watermaster Board meeting was dismissed by Chair Willis at 2:11 p.m.

Secretary: _____

Minutes Approved: November 17, 2011