

Seaside Ground Water Basin Water Master
Action Minutes
Initial Meeting
February 22, 2006

The Seaside Ground Water Basin Water Master met in an Initial session at 9:30 a.m. on the above date at the Soper Field Community Service Center, 220 Coe Avenue, Seaside, California.

The meeting was called to order by Steve Leonard, Vice-President and Manager of Cal-American Water Company, who welcomed all in attendance.

Representative to Watermaster: Joe Russell, Mayor of Del Rey Oaks
 David Pendergrass, Mayor of Sand City
 Gary Curteo, President Laguna Seca
 Golf
 Ralph Rubio, Mayor of Seaside
 Steve Leonard, Cal American Water
 Dan Albert, Mayor of Monterey
 Paul Bruno, Coastal Land Owner
 Curtis Weeks, General Manager
 MCWRA
 David Berger, General Manager,
 MPWMD

Staff Members Present: Ray Corpuz
 Diana Ingersoll

Curtis Weeks, General Manager, MCWRA felt that calling this an Initial Water Master meeting was inappropriate and premature. Stating that this meeting really does not fit within the framework of the Water Master and pointed out that his agency board has not officially appointed it Watermaster representative. He wanted to get to the substantive issue and talk about whether or not the board is going to deal with any appeals of if the Board is going to move forward in a timely manner.

David Berger, General Manager, MPWMD concurred with the comments that were made by Mr. Weeks. He added that MPWMD was prepared to move forward with the implementation, adjudication and get down to the business that is required in order to implement the fiscal solution and all the other tasks that have been ordered by the Judge. He indicated that his agency board has not officially appointed its Watermaster representative; it is on their agenda for Thursday.

Mr. Leonard announced that due to health reason in his family, that Supervisor Jerry Smith would not be present today. He also acknowledged Supervisor Dave Potter in the audience.

REVIEW OF AGENDA

Cal-Am Vice-President Steve Leonard asked the Board Members to review the agenda; the agenda was approved as written.

Mr. Leonard noted that the judgment was not final at this point, but time is of the essence; the Judge has advised the parties that they have until March 7, 2006 to file objections to the proposed statement of decision. Judge Randall also states that he will be out town and will rule on any objections raised the week of March 20, 2006. Mr. Leonard asked if there was concurrence to move forward with the Water Master.

There was discussion between the representatives whether the meeting should be continued. The Cities of Del Rey Oaks, Sand City, and Seaside do not plan on any appeals. It was the consensus of all parties to move forward on this item because of the time constraints.

Organization of the Watermaster

MSC Russell, Pendergrass

RESOLVE that Mayor Rubio be Chairman of the Water Master Board.

AYES 7

MSC Curtis, Rubio

RESOLVE that Bob Costa be Vice-Chairman of the Water Master Board.

AYES 7

Mr. Weeks and Mr. Berger indicated that would not be voting because they are not the elected representatives that should be here today and felt that it was inappropriate to not have the agencies represented in this body at the right level. However they will be participating in the discussion.

Chairman Rubio stated at this point that Mr. Weeks and Mr. Berger would be included in this panel so that their comments will be expressed as a representative from their particular agencies.

Selection of Secretary and Treasurer

Mr. Leonard nominated the Water Management District as the Secretary. Hearing no objection, the Water Management District was approved to be Secretary.

Selection of Secretary and Treasurer – Continued

It was noted that the Board would be collecting funds to do the work that needs to be done, has it been decided where those funds would be held?

It was suggested that the office of Administrator and Treasurer be combined. And that it would be more appropriate for one of the public sector entities on this Board than the private sector to function in that manner.

ORAL COMMUNICATION

Chairman Rubio opened Oral Communication.

John Fisher, Pacific Grove resident voiced his displeasure that more of the public was not present; he felt that there was very little public notice of the Board meeting today. He also noted the agencies that were not represented.

Dave Potter, Supervisor supported Mr. Weeks and Mr. Berger views on this subject; they have no authority to act and no appointed representative. He also objected to the Board's presenting an agenda in which "neither agency had input. He felt that to proceed ahead without two of the major water agencies involved in the discussion and having appropriate direction given to them makes absolutely no sense.

As no one else wish to speak, Chairman Rubio closed Oral Communication.

Chairman Rubio explained that the meeting was properly noticed; the Board of Supervisor had an opportunity on Tuesday to name a representative for the County. Inaction by other is not a problem of the Board or that of other who did take action.

NEW BUSINESS

Consider Contracting for Services of an Administrator to the Watermaster

The Watermaster is responsible for assisting the court in the administration and enforcement of the Tentative Decision. This item is to consider contacting for services of an Administrator who would report to the Watermaster to ensure compliance with the administrative duties set forth in the Tentative Decision. It is recommended that the chairman appoint an ad hoc committee to develop a scope of work and qualifications for the position of Administrator; to develop a short-list of interested and qualified candidates for selection by Watermaster.

It was consensus of the Board that Mayor Russell, Mr. Bruno, Water Resource Agency, a selected representative from the County participates and Cal-American Water.

NEW BUSINESS

Mr. Berger passed out a report that is on the MPWMD Agenda regarding the *“Designation of MPWMD Representative to Seaside Ground Water Basin Watermaster; Authorization to Submit MPWMD Proposal for Technical, Administrative and Financial Management Support Services to Watermaster”*.

Mr. Berger explained that Staff is requesting Board direction to prepare and submit to the Watermaster a proposal for the District to provide technical, administrative and financial management support services. Clearly this approach is consistent with Judge Randall’s intent to avoid unnecessary waste of taxpayer and ratepayer time and money to attempt to replicate Basin expertise and knowledge that district water resources division staff already possesses. MPWMD has hydrologic, hydrogeologic and engineers; he felt that it was premature to appoint a person who perhaps has no background in the management of the Basin when there may be an opportunity to more cost effectively provide that service by one of the members of the Water Master. He is urging the MPWMD Board to authorize him to make a proposal to the Watermaster to provide those services.

Chairman Rubio explained that a proposal from MPWMD or any other qualified agency or persons is totally appropriate for consideration by the Watermaster.

Chairman Rubio appointed Mayor Russell, Mr. Bruno, Water Resource Agency and Cal-American Water to serve on the Ad Hoc Committee.

Appointment of Legal Committee

To advise the Watermaster on legal issues pertaining to the administration and enforcement of the Tentative Decision.

It was the consensus of the Board to have each member of the Board retain their legal advisors and work as a team until such time it becomes necessary to hire a dedicated attorney.

Establishment of Regular Meeting Date, Time and Place.

As required by the Tentative Decision, the Watermaster must establish a date, time and place for regular meetings of the Watermaster.

There was some discussion regarding the establishment, frequency and time of regular meetings; it was decided that a tentative date of March 22, 2006 at 1:30 p.m. at the Community Service Center at Soper Field.

Rules and Regulations.

The Tentative Decision requires the Watermaster to establish Rules and Regulation of procedures. It is recommended that the Chairperson appoint an Ad Hoc Committee to develop a set of rules and regulations for adoption by the Watermaster.

Mr. Weeks commented that the Watermaster has ninety (90) after entry of Judgment to adopt initial Watermaster rules and Regulations. It was Mr. Weeks' and Mr. Berger's desires to have their perspective agencies represented and participate in the discussion, dialogue regarding the Rules and Regulations.

Chairman Rubio suggested keeping one member from each interest group on the Ad Hoc Committee. Mayor Pendergrass will represent the cities; Mr. Costa will represent the landowners; Mr. Berger will represent the District and Cal-American will be charged with developing the *Rules and Regulations* for the adoption by the Watermaster.

It was suggested that the Ad Hoc Committees meet after today's meeting and setup their own agendas for the meetings.

There was suggestion that at least one attorney be present as staff support; there was also the suggestion having each one of the agencies bring their own attorney; Chairman Rubio felt more comfortable with one attorney. It was agreeable that the committee would decide amongst themselves who would be the attorney.

Authorize Collection of Administrative Budget Assessment.

The Tentative Decision established an Administrative Budget Assessment of \$100,000 to be assessed against the following producers in accordance with set percentages; California American, 83% city of Seaside, 14.4%; City of Sand City, 2.6%.

It is recommended that the Watermaster authorize the collection within thirty (30) days of the Administrative Budget Assessment.

The Watermaster has to collect the money but there has to be an entity to actually do the fiscal accounting of it. Maybe the committees that have been setup to decide who would perform that function could decide that. It was suggested that the written proposals go to the committees from the various organizations relative to how the resources are going to be captured and have the committees discuss those ideas and bring the recommendations back to the full body. Chairman Rubio felt that the committees could look at the proposals but wanted the Watermaster Board to see all proposals. It was agreed that this item be referred to the two (2) Ad Hoc Committees that have been established – *[Contracting for Services of an Administrator to the Watermaster; Appointment of Legal Committee and Rules and Regulations]*.

Authorize Collection of Monitoring and Management Budget Assessment.

The Tentative Decision establishes a Budget Assessment for the Monitoring and Management Plan of \$200,000 to be assessed initially against the following producers in accordance with set percentages: California American, 91%; City of Seaside, 7%; Granite Rock Company, 1%; and D.B.O. Development No. 27, 1%. In addition, the Tentative Decision establishes a one-time payment in accordance with the above percentages of \$1,000,000 for implementation of the Monitoring and Management Plan.

It is recommended that the Watermaster authorize the collection within thirty (30) days of the \$200,000 Budget Assessment for Monitoring and Management Plan. It is further recommended that the Chairman defer collection of the initial one-time payment for implementation until such time as the Monitoring and Management Plan has been prepared and adopted by the Watermaster.

It was agreed that this item be referred to the Ad Hoc Committees that have been established – *[Contracting for Services of an Administrator to the Watermaster; Appointment of Legal Committee and Rules and Regulations]*.

Establishment of Replenishment Assessment.

The Tentative Decision requires that the Watermaster establish and levy Replenishment Assessments for over-production from the Seaside Groundwater Basin.

It is recommended that the Chairman form an Ad Hoc committee to develop proposed Replenishment Assessment for adoption by the Watermaster. The Ad Hoc Committee will also provide information that supports the proposed Replenishment Assessment.

It was agreed that this item be referred to the Ad Hoc Committees that have been established – *[Contracting for Services of an Administrator to the Watermaster; Appointment of Legal Committee and Rules and Regulations]*.

Establishment of Technical Committee.

The Tentative Decision establishes a number of technical items to be accomplished by the Watermaster within one year, or sooner. To comply with the Tentative Decision the Watermaster will require the assistance of qualified engineers.

It is recommended that a committee made up of engineers appointed by each respective representative to the Watermaster be formed for the purpose of advising the Watermaster on technical issues. Costs associated with the work of the committee will be borne by the respective representatives with engineers on the committee unless the work has been approved in advance and is part of the budget of the Watermaster.

Establishment of Technical Committee – Continued

Chairman Rubio explained that this item would require that each City and entity appoint an engineer to the technical committee, which may create a redundancy in some cases but feels that it's a good step to start with.

Mr. Berger noted that the two capacities that are needed are both engineering and science based; hydrologist, hydro geologist are not engineers they are scientist. He felt that the word engineer could be read a little more broadly. He realizes that the Cities have engineers and not hydrologist but his agency has both, it could be more appropriate to have that person be a scientist than an engineer.

Chairman Rubio explained that the technical team that will do the job for the Watermaster would have to have the science also.

It was the consensus of the Board that the focus needs to be on physical solutions and the Board getting to a physical solution.

City Attorney Don Freeman suggested appointing Mr. Heisinger to work with each of the Ad Hoc Committees initially because he could explain the judgment so that everyone is on the same page.

Establishment of a Budget and Finance Committee.

An Annual Budget for the Watermaster must be developed as required by the Tentative Decision.

It is recommended that a standing Budget and Finance Committee be established. A representative of California American Water, City of Seaside and City of Sand City will be members of the Finance Committee, along with such other representatives as the Chairman appoints.

It was suggested by Mr. Weeks that the City of Seaside, City of Sand City, Coastal Land Owners and California American Water be the makeup of the committee. Chairman Rubio explained that each of the entities that were just named to the Standing Committee would appoint their representative to the committee.

Chairman Rubio does anticipates that the person that is appointed Administrator would also be facilitating the Budget and Finance Committee.

Authorize Development of Monitoring and Management Plan.

Within sixty (60) days, the Watermaster must prepare a Monitoring and Management Plan.

Authorize Development of Monitoring and Management Plan.

It is recommended that the Watermaster authorize the Technical Committee to develop a proposed Monitoring and Management Plan for adoption by the Watermaster. Everyone was in agreement with this recommendation.

David A. Berger, General Manager introduced Darby Furst, Senior Hydrologist who presented some technical information to the Watermaster Board. He has analyzed the decision in term of the percentages that have been allocated by the Judge to each of the producers. In terms of percentage he has actually calculates what that means in acre-feet. Mr. Berger explained that this information has been shared with Cal-American Water but feels that everyone involved need to understand what the impact is. There are only a few days to get the Judge's attention to what the Agency perceived to be a flaw in the decision. He does not feel that the Judge really understood what the impact was because he simply lifted language and percentages out of the proposed stipulated judgment but reduced the operating yield and Mr. Furst's presentation explained what the impact of that really is.

It was noted that when the stipulation was actually put together and the percentages were developed, the percentages were based on 100% of operating yield – that included percentages that were allocated to the land owner group assuming that at some point in time that they might also convert to standard producers and might share a percentage of that operating yield. The way the stipulation had been written and carried forth in the judgment; once you completed the first calculation; you have 400 acre-feet of water left over so then you re-apply percentages and keep doing that until eventually come up with a number. So the proposed judgment actually has a footnote that addresses how you do that calculation on page 20 of the decision.

The decision does address the issue that has been raised; this was in the very original stipulated judgment, it was carried forward in the proposed decision that the court issued a month ago and it is in the most recently drafted version that was submitted to the court.

There was further discussion between the members and it was suggested that the Technical Committee make it one of their priorities to come up with a clear statement of what Mr. Furst has come forward [clear numbers] so people can see them without having to the do the calculations. The Board felt it appropriate for the Technical Committee to have access to the information that has been pointed out this morning and any other footnotes that may affect that number.

Chairman Rubio stated that the Technical Committee should review all of the data and give the Board a standard based on technical aspect and it should be shared with the Rules and Regulation Committee.

There was further discussion between the Board Members regarding this item.

ADJOURNMENT

The meeting was adjourned at 11:17 a.m.

Respectfully submitted,

Joyce E. Newsome, CMC
City Clerk

ATTEST:

Ralph Rubio, Chairman

***MSC-Motion/Second/Carried**