

**Record of the Minutes of the
Beaumont Basin Committee Meeting of the
Beaumont Basin Watermaster
Regular Meeting
Wednesday, June 6, 2018**

Meeting Location:

Beaumont-Cherry Valley Water District
560 Magnolia Avenue
Beaumont, CA 92223

I. Call to Order

Chairman Arturo Vela called the meeting to order at 10:00 a.m.

II. Roll Call

<i>City of Banning</i>	<i>Arturo Vela</i>	<i>Present</i>
<i>City of Beaumont</i>	<i>Amer Jakher</i>	<i>Present</i>
<i>Beaumont Cherry Valley Water District</i>	<i>Daniel Jagers</i>	<i>Present</i>
<i>South Mesa Water Company</i>	<i>George Jorritsma</i>	<i>Present</i>
<i>Yucaipa Valley Water District</i>	<i>Joseph Zoba</i>	<i>Absent</i>

Thierry Montoya was present representing legal counsel for the Beaumont Basin Watermaster.

Tom Harder was present as consultant and engineer for the Beaumont Basin Watermaster.

Members of the public who registered or attended were: Mike Kostelecky, David Fenn, Bruce Granlund, and John Covington.

III. Pledge of Allegiance

Chairman Vela led the pledge of allegiance.

IV. Public Comments: None.

V. Correspondence: None.

VI. Consent Calendar

It was moved by Member Jorritsma and seconded by Member Jagers to approve the Meeting Minutes of the following dates:

1. Meeting Minutes for March 28, 2018

AYES: Jagers, Jakher, Jorritsma, Vela, Zoba
NOES: None.
ABSTAIN: None.
ABSENT: None.
STATUS: Motion Approved

VII. Reports

- A. Report from Engineering Consultant – Tom Harder, ALDA Engineering

Mr. Harder requested that any comments on the draft Beaumont Basin Storage Loss Analysis to be submitted soon.

- B. Report from Legal Counsel – Thierry Montoya, Alvarado Smith

Legal Counsel Thierry Montoya drew attention to the May 15, 2018 water right transfer memorandum in follow up to a request at the prior meeting regarding transfer of overlying rights to appropriative rights via sale or other transfer permitted by the judgment.

VIII. Discussion Items

- A. Status Report on Beaumont Basin Water Level Monitoring Program through May 29, 2018

Recommendation: No recommendation.

Engineer Hannibal Blandon advised that a new temporary probe has been installed at Well 29. At Oak Valley #5 a communications cable is not working, but water levels have been stable within 6 feet. The Noble Creek observation wells have seen a significant rise over the last year and a half. On the south side, the Summit Cemetery varies due to pumping at a nearby well. The Sun lakes well is fairly flat. On the east, Banning well 8 had lost the probe. It will be pulled and a new probe will be installed this summer. Well 15 has a flat levels, but Well 9 shows some fluctuating due to nearby pumping. Two wells centrally located show significant variation due to pumping. Potential for additional monitoring wells is being pursued on a property owned by the Catholic Diocese, and at YVWD Lift Station #2.

- B. Consideration of the Watermaster Budget for Fiscal Year 2018-19

Recommendation: That the Watermaster Committee approve the budget for Fiscal Year 2018-019 and authorize the preparation of an Independent Accountant’s Financial Report for Fiscal Year 2017-18.

Member Zoba introduced the budget. Typically, invoices are sent to the Watermaster Committee members when a task order or special project is approved, or administrative funds need replenishment. As such, there is no immediate need to collect additional funds from the members.

The current balance as of the end of April is \$213,502 which is sufficient to continue, said Zoba.

It was moved by Member Jagers and seconded by Member Jakher to approve the budget for Fiscal Year 2018-019 and authorize the preparation of an Independent Accountant's Financial Report for Fiscal Year 2017-18.

AYES:	Jagers, Jakher, Jorritsma, Vela, Zoba
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.
STATUS:	Motion Approved

C. Review of a Memorandum Regarding the Transfer and Conversion of Overlying Water Rights to Appropriative Rights and Accounting for Such

Legal Counsel Thierry Montoya noted there have been recent transfers of overlying water rights to appropriators. Overlying rights can be severed and sold, consistent with California statutes. Once that happens, the right is no longer tied to the property and the interest can transfer. Outside of the judgment, the right becomes an appropriative right. Section 3 of the judgment regarding adjustments and transfers of rights is consistent with case law in providing an overlying party shall forbear the use of the volume of the overlying right earmarked by an appropriative party; the appropriative party providing such service shall have the right to produce the volume of water forgone by the overlying party.

Mr. Montoya continued; the appropriative nature takes place as set forth in a resolution, for example in the Oak Valley resolution. Once water service is provided by the appropriator for that property, that amount then transfers to an appropriative right. Therefore, he admonished, it becomes very important to include in annual reports the columns advising the public and the Board what overlying rights were transferred, the total amount of the right, and what amount becomes a transferred appropriative right based on the dates of service, parcels being serviced, and the amounts.

Mr. Vela asked about limitations on area of use. Mr. Montoya clarified that it is being transferred for water service. California law requires proof of water rights for development, not paper water rights. Mr. Jagers added that the overlying right is assigned to certain properties within the adjudication. Mr. Montoya specified that the overlying rights are tied to the parcels.

Mr. Jagers asked if more water is transferred to the appropriator than is provided for the development on an annual basis, does that appropriator then secure the leftover supply for their use. Mr. Montoya noted the intent of the transfer is to give all overlying rights but not all need to be used; the rights are correlative to the basin as a whole. Only what is going to be serviced back to the parcel would transfer to the appropriator.

Mr. Montoya identified the difference as a delta which is a correlative right and could be arguably used by other parties. In the case of a decrease in safe yield, the overlying right would decrease, and so would the appropriative right, as the appropriator is only taking the amount of water forgone by the overlyer.

Thus is not true of an increase; overlying rights holders would not have an increase in their rights. By transfer, the right is intended to be fully divested from the property and becomes appropriative. The appropriative rights holder would not have the benefit of the increase in yield because the rights are correlative and are for the benefit of everyone.

The Watermaster would have to look at the judgment and clarify the issue: the overlying party would not enjoy benefit of increased safe yield, as that is inconsistent with correlative rights law.

Chair Vela suggested investigating this further for the purposes of accounting and tracking.

Mr. Montoya continued, in response to Mr. Jagers: the overlying water rights holder has forgone its overlying right and it has become appropriative only to the extent that the appropriator is providing that water back for use on a particular overlying parcel. The overlyer might still have overlying rights for what is not being used. Mr. Jagers asked if that goes back into the pool to be redistributed; Mr. Montoya replied it could; but if the overlyer wants water service for only a fraction of the overlying rights, the overlying right remains in the ownership of the overlyer, unused. If unused, pursuant to the judgment, it would be redistributed.

Mr. Jorritsma asked if an appropriator takes over additional properties would the percentages allotted in the judgment change; Mr. Montoya said it would not.

Mr. Zoba suggested tasking Mr. Montoya with identifying how the processes would work. He suggested a separate category to track overlying rights and appropriative rights. He noted that it was not the original intent that overlying water rights have to be used on that parcel.

Mr. Zoba suggested Counsel develop this as a resolution which would identify the issues, make is available for overlyers to view, then incorporate it into the Watermaster Rules and Regulations.

Engineer Blandon pointed out some issues and addressed some questions to Mr. Montoya. Mr. Montoya defined that the overlying right is parcel specific. The rights become converted pursuant to the judgment and are forgone by the overlying party when the appropriator serves water for those parcels; so three columns would be needed on the report. Some lots may be developed before others. Mr. Blandon related a scenario in which an area of development may use more than its percentage of allocated water. Mr. Montoya noted that this has not been specified down to the parcel level.

Mr. Montoya noted that when an overlying right is converted, it becomes part of one bucket. Mr. Zoba noted there will need to be a third bucket to account for issues such as time for development, and recalculation of safe yield.

IX. Topics for Future Meetings

- A. Development of a methodology and policy to account for new yield from capturing local stormwater in the basin
- B. Development of a methodology and policy to account for groundwater storage losses in the basin resulting from the spreading of additional water sources (*August agenda*)
- C. Development of a methodology and policy to account for recycled water recharge
- D. Develop a protocol to increase the accuracy and consistency of data reported to the Watermaster
- E. Develop a policy to account for transfers of water that may result when an Appropriator provides water service to an Overlying Party
- F. Discussion of overlyer return flow credit and how it might be managed
- G. GIS system

X. Comments from the Watermaster Committee Members

There were no comments.

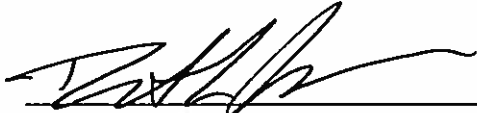
XI. Announcements

- A. The next regular meeting of the Beaumont Basin Watermaster is scheduled for Wednesday, August 1, 2018 at 10:00 a.m.

XII. Adjournment

Chairman Vela adjourned the meeting at 10:48 a.m.

Attest:



Daniel Jagers, Secretary
Beaumont Basin Watermaster