

The meeting was held at 1:04 p.m. on Tuesday, September 11, 2012, at the Clark County Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

### **COMMISSIONERS IN ATTENDANCE**

Chairman	George F. Ogilvie III
Vice Chairwoman	Marybel Batjer
Commissioner	Tom Collins
Commissioner	J. Brin Gibson
Commissioner	Duncan R. McCoy
Commissioner	Berlyn D. Miller

### **COMMISSIONERS NOT IN ATTENDANCE**

Commissioner	Bob Coffin
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### **DEPUTY ATTORNEYS GENERAL**

Senior Deputy Attorney General	Jennifer T. Crandell
Senior Deputy Attorney General	Ann C. Pongracz

### **COMMISSION STAFF IN ATTENDANCE**

Executive Director	Jayne Harkins, P.E.
Deputy Executive Director	James D. Salo
Chief of Finance and Administration	Douglas N. Beatty
Assistant Director of Engineering and Operations	Robert D. Reese
Manager, Energy Services	Gail A. Bates
Manager, Hydropower Program	Craig N. Pyper
Hydropower Program Specialist	Michael S. Harris
Natural Resource Analyst	Jason Thiriot
Natural Resource Analyst	Kimberly E. Maloy
Senior Energy Accountant	Gail L. Benton
Energy Accountant	Kalora Snyder
Office Manager	Judy K. Atwood
Administrative Assistant IV	Brenda L. Haymore
Administrative Assistant II	Melissa Dibert
Administrative Assistant II	Becky Miller

### **OTHERS PRESENT; REPRESENTING**

City of Boulder City	Rory Dwyer
Consultant	Sara A. Price, Esq.
Lincoln County Power District No. 1	Dave Luttrell
NVEnergy	Edgar Patino
Overton Power District No. 5	Mendes Cooper
Overton Power District No. 5	Delmar Leatham
Southern Nevada Water Authority	Scott Krantz
Southern Nevada Water Authority	Colby Pellegrino

**COLORADO RIVER COMMISSION  
OF NEVADA  
MEETING OF SEPTEMBER 11, 2012**

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The Colorado River Commission meeting was called to order by Chairman Ogilvie at 1:04 p.m. followed by the pledge of allegiance.

**A. Conformance to Open Meeting Law.**

Jayne Harkins, Executive Director, confirmed that the meeting was in compliance with the Open Meeting Law.

**B. Comments and questions from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)**

Chairman Ogilvie asked if there were any comments or questions from the public. There were none.

**C. For Possible Action: Approval of minutes of the July 10, 2012 meeting.**

**Commissioner Collins moved for approval of the minutes of the July 10, 2012 meeting as written. The motion was seconded by Commissioner Miller and approved by a unanimous vote.**

**D. For Possible Action: Consideration of and possible action to ratify the Colorado River Commission of Nevada's fiscal 2014 and 2015 budget recommendation.**

Douglas N. Beatty, Chief of Finance and Administration, reported there has been no change from the budget that was introduced at the July Commission meeting. At the July Commission meeting, it was indicated that the budget had been provided to all the Commission's customers. Staff reviewed the budget with the Southern Nevada Water Authority (SNWA) staff prior to the July Commission meeting, and with the industrial power customers and interested hydropower customers after the July meeting. No questions or comments on the budget have been received to date. A copy of the 2014 and 2015 budget recommendation is attached and made a part of the minutes. (See Attachment A.)

**Commissioner Collins moved for ratification of the Commission's fiscal 2014 and 2015 budget recommendation. The motion was seconded by Vice Chairwoman Batjer and approved by a unanimous vote.**

**E. For Possible Action: Consideration of and possible action to approve a Mutual Assistance Agreement Between the Lincoln County Power District No. 1 and the Colorado River Commission of Nevada.**

Robert D. Reese, Assistant Director of Engineering and Operations, stated he would give the briefings for Agenda Items E and F together as the two items are similar Mutual

Assistance Agreements, although separate Commission approval would be requested for each item.

Mr. Reese stated as background information, that the Lincoln County Power District No. 1 (LCPD) General Manager, Dave Luttrell, was the Project Manager for the Commission's Power Delivery Project back in its beginning.

Mr. Reese explained that the Mutual Assistance Agreements provides the Commission staff with an opportunity to pull emergency and technical mutual assistance from Overton Power District No. 5 (OPD) and LCPD. The funding sources for the Mutual Assistance Agreements are up to each party. For example, if the Commission incurs expenses from the party requesting a service, the other party will reimburse those expenses under this contract. Likewise, if the Commission requires another party's assistance, the other party will be reimbursed from the operating budgets currently in place in the Power Delivery Project, Basic Power Project, and the Clark County Water Reclamation District budgets. The Mutual Assistance Agreements will allow the parties to provide emergency and technical mutual assistance and to share expertise and equipment as needed and requested.

Commissioner Collins asked if routine activities would include public works construction projects.

Mr. Reese said the Mutual Assistance Agreements are not intended to take the place of or minimize any type of public works construction project. The mutual assistance is merely there for routine and technical assistance. They are more like good neighbor policies; if LCPD and OPD need resources and the Commission has the ability to provide the resources then we can do so and be reimbursed for our expenditures, and vice-versa with LCPD and OPD.

**Commissioner McCoy moved for approval of the Mutual Assistance Agreement between the Lincoln County Power District No. 1 and the Commission. The motion was seconded by Commissioner Gibson and approved by a unanimous vote.**

<p><b>F. <i>For Possible Action:</i> Consideration of and possible action to approve a Mutual Assistance Agreement Between the Overton Power District No. 5 and the Colorado River Commission of Nevada.</b></p>
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Item F was discussed in Agenda Item E.

Mr. Reese said he has personal experience working with OPD and feels OPD brings a tremendous amount of resources to the Commission.

**Commissioner Collins moved for approval of the Mutual Assistance Agreement between the Overton Power District No. 5 and the Commission. The motion was seconded by Commissioner Miller and approved by a unanimous vote.**

**G. For Possible Action: Consideration of and possible action to approve three letter agreements related to advance of funds for the proposed move of certain designated customer loads into the Western Area Power Administration balancing area: (1) a Letter Agreement Between Western Area Power Administration and the Colorado River Commission of Nevada; (2) a Letter Agreement Between NVEnergy and the Colorado River Commission of Nevada; and (3) a Letter Agreement Between the City of Boulder City and the Colorado River Commission of Nevada.**

Ms. Harkins stated there are changes on the Letter Agreement between the City of Boulder City (Boulder City) and the Colorado River Commission of Nevada.

Gail A. Bates, Manager of Energy Services, explained that for quite some time the Commission has been working with our customers to evaluate the costs and benefits of moving some of their electrical loads out of the NVEnergy (NVE) Balancing Area and into Western Area Power Administration's (Western's) Balancing Area. These customers anticipate receiving benefits from this move in the form of reduced ancillary service costs which are applied to all users of the transmission grid. Two of our customers, the SNWA and Boulder City, have elected to make this move.

Ms. Bates stated that the Commissioners have a package of three (3) agreements; one agreement is with NVE, one is with Western and the other is with Boulder City. Ms. Bates asked the Commission to move forward with two of the three agreements, the agreements with NVE and Western. She did not ask the Commission to approve the Boulder City agreement at this time, due to a need for additional work prior to approval.

In the meantime, in order to keep this project moving, SNWA has committed to funding the full cost of the work, both its share of the work and Boulder City's share. Therefore, Commission staff is only requesting approval at this time to move forward with the Western and NVE letter agreements.

SNWA's representative Scott Krantz verified that SNWA is willing to fund the joint study, and stated that SNWA anticipates that Boulder City will reimburse SNWA for costs through the Silver State Energy Association.

**Commissioner Collins moved for approval of two letter agreements related to advance of funds for the proposed move of certain designated customer loads into the Western Area Power Administration balancing area: (1) the Letter Agreement Between Western Area Power Administration and the Colorado River Commission of Nevada, and (2) the Letter Agreement Between NVEnergy and the Colorado River Commission of Nevada. The motion was seconded by Commissioner McCoy and approved by a unanimous vote.**

**H. For Possible Action: Consideration of and possible action to approve, in substantially the same form, the Second Amended Operation Agreement for water banking among The Metropolitan Water District of Southern California, the Southern Nevada Water Authority, and the Colorado River Commission of Nevada.**

Ms. Harkins explained this agreement is similar to the previous operation agreement. Under this agreement, the Commission, SNWA and the Metropolitan Water District of Southern California (MWD) agree that the total quantity of Colorado River Water to be stored during the years 2012 through 2016 shall be between a minimum of 200,000 acre-feet and a maximum of 400,000 acre-feet. SNWA would be effectively charged with a loss of about 1/3 of the amount of water stored by MWD during these years. There are not many changes between this agreement, and the previous operation agreement.

Commissioner Ogilvie asked the status of the approval by MWD and SNWA.

Ms. Harkins stated it is her understanding that SNWA will put this item on their agenda this month, which is Thursday of next week. MWD does not have to take it to their board for approval.

Commissioner Ogilvie asked if MWD's General Manager has the authority to sign the agreement.

Ms. Harkins replied yes.

Commissioner Ogilvie noted that the agenda item says the letter will be signed in substantially the same form, and asked what would constitute not being in substantially the same form.

Ms. Harkins replied if further comments were received, the Commission staff would have to review the comments and make that decision with advice from the Attorney General's office.

Jennifer T. Crandell, Senior Deputy Attorney General, stated if there are changes of any substance then Commission staff would bring this agreement back to the Commissioners for approval. But if there are just little edits and nitpicks in language that are not going to change the substance of the agreement, Commission staff would feel comfortable going ahead with the Commissioners' approval today.

Vice Chairwoman Batjer stated the agreement is to store a minimum of 200,000 acre-feet and a maximum of 400,000 acre-feet. What if MWD is unable to store the minimum amount of 200,000 acre-feet?

Ms. Harkins replied that SNWA is looking at the water as unused. SNWA is looking to start immediately, for the remainder of this year, because there is enough unused water over the next few years that SNWA is anticipating having at least that much available for the next five years.

Chairman Ogilvie asked what Nevada's remedy would be in the event that, after banking this water, MWD balks at satisfying its obligations to the Commission.

Ms. Crandell stated there is no liquidated damages clause or anything like that.

Chairman Ogilvie asked how the Commission would enforce its rights.

Ms. Crandell said the Commission would have to go through the U.S. Bureau of Reclamation (USBR) because USBR will have to approve these transfers also. If USBR doesn't approve the transfers, then the Commission would have to go back and re-negotiate with MWD. But the Commission probably would not ever go after MWD for failing to store the water. The Commission would have to talk to MWD again.

Chairman Ogilvie asked what would happen if MWD has used the water stored with them.

Ms. Crandell explained this is unused water; the Commission is not using it. If the Commission leaves it in the lake, it could be claimed as surplus water down the road. So rather than just letting this unused water go downstream, the Commission wants to try to store it with MWD and make this work.

Chairman Ogilvie understands this but essentially MWD is borrowing water. How does the Commission enforce repayment of MWD borrowing the water?

Ms. Crandell asked if Chairman Ogilvie's concern is that once the water is banked the Commission will not be able to get it back.

Chairman Ogilvie replied yes.

Ms. Crandell stated the Commission would have to go through USBR and they would address the situation because the Commission is upstream and entitled to that water under this agreement. So the Commission would argue with USBR for delivery.

Ms. Harkins stated USBR is a party to the Storage and Interstate Release Agreement which governs this operation agreement. The storage and release agreement is signed by SNWA, the Commission and the federal government.

Chairman Ogilvie asked whether USBR has the ability to enforce the agreement between MWD, SNWA and the Commission as a result of being a party to the Storage and Interstate Release Agreement.

Ms. Harkins stated as USBR approves water agreements each year they could subtract it from MWD's water order and put it into SNWA's water order for the State of Nevada. USBR would have the authority to do that.

Commissioner Gibson asked if the Department of Interior (DOI) could require MWD to give us a certain allocation of water as a result of using the banked water. Is there any guarantee?

Ms. Harkins replied under the Storage and Interstate Release Agreement, part of that comes under the regulation. USBR is saying they will move this water around as per the agreements, contractually.

**Commissioner Miller moved for approval of the Second Amended Operation Agreement for water banking among The Metropolitan Water District of Southern California, the Southern Nevada Water Authority, and the Colorado River Commission of Nevada. The motion was seconded by Vice Chairwoman Marybel Batjer and approved by a unanimous vote.**

**I. *For Possible Action:* Consideration of and possible action to approve the Colorado River Commission of Nevada's submission of a comment letter to the U.S. Department of the Interior Bureau of Land Management in regards to the Final Environmental Impact Statement on the Southern Nevada Water Authority's Groundwater Development Project.**

Ms. Harkins stated the Bureau of Land Management (BLM) came out with their Final Environmental Impact Statement (FEIS). The Commission has previously recognized the importance of the acquisition, development and sustainable use of additional water supplies and its critical importance to the public welfare of the citizens of the Las Vegas Valley. The Commission has passed two resolutions, 2006-01 and 2009-04, as well as a letter to the State Engineer on the draft Environmental Impact Statement in October 2011, all supporting the development of the in-state, non-Colorado River water resources and the completion of the environmental documentation and permitting for these non-Colorado River resources by the SNWA. There is a several month waiting period before BLM can issue the Record of Decision. This letter would submit the Commission's support for this development into the BLM record.

Chairman Ogilvie asked whether this draft letter was posted with the agenda for this meeting.

Judy Atwood replied that the letter was posted with the agenda. (Following the Commission meeting, staff clarified that they'd meant to say that the draft letter was included in the briefing materials, not posted with the Commission's agenda. Generally, briefing materials are distributed to the Commissioners, and made available to the public upon request, but not posted with the agenda.)

Vice Chairwoman Batjer asked Ms. Harkins if she knew if the BLM's FEIS included any climate change models.

Ms. Harkins stated the Commission has looked at the FEIS and found that there are sections where climate change is discussed. There is discussion about how the current climate

change models suggest that within the study area, mean temperatures are expected to rise and any precipitation is likely to remain similar to present conditions as the century progresses. There is insufficient information available to predict how changes in climate will affect the rate of groundwater recharge in the region. Because of the uncertainties regarding the potential effects of climate change on the groundwater flow system, it was not possible to provide a reasonable or meaningful simulation of the combined effects of pumping and climate change on water resources. Climate change was not considered in the actual modeling that BLM did for the resources.

Chairman Ogilvie stated that since this is such a sensitive subject he wanted to take this opportunity to make sure, for the record and for the people in attendance, that the Commission's action addressing the endorsement of this letter is understood. Specifically, Chairman Ogilvie referred to the penultimate paragraph on page 3 of the letter which states "Accordingly, the CRCN endorses the SNWA's Groundwater Development Project."

Chairman Ogilvie asked if anyone from the public wished to address the Commission before the vote was taken on the draft letter. There were none.

Commissioner Gibson stated that his law firm, Lionel, Sawyer & Collins, was involved in a matter tangentially related to this agenda item. He was not personally involved in that representation; however, because he did abstain on a similar related item in the past because of that representation, he will also abstain here.

**Commissioner Collins moved for approval for the Commission's submission of a comment letter to the U.S. Department of Interior Bureau of Land Management in regards to the Final Environmental Impact Statement on the Southern Nevada Water Authority's Groundwater Development Project. The motion was seconded by Commissioner McCoy and approved by a unanimous vote with the exception of Commissioner Gibson who abstained from the vote.**

**J. *For Information Only:* Status update on the hydrologic conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River.**

Kimberly Maloy, Natural Resources Analyst, provided a report on the following:

- Unregulated Inflow into Lake Powell
- Storage Conditions
- Storage Conditions Comparison
- This Day in History
- Precipitation – Colorado River Basin
- Lake Powell End of Month Elevations
- Lake Mead End of Month Elevation Projections
- Precipitation Summary Comparison for July and August 2012
- Precipitation Summary Comparison – October 2011 to August 2012
- Total Precipitation for Las Vegas, Nevada for August 2012

- Precipitation for Las Vegas, Nevada on 8-22-12
- Drought Monitor as of September 4, 2012
- U.S. Seasonal Drought Outlook as of September 6, 2012
- Water Use in Southern Nevada/January-July 2012
- Nevada's Consumptive Use of Colorado River Water

A copy of the report is attached and made a part of the minutes. (See Attachment B.)

**K. *For Information Only:* Status update on the Colorado River Commission of Nevada's efforts to implement the provisions in the Hoover Power Allocation Act of 2011 (H.R. 470) passed by Congress.**

Craig Pyper, Hydropower Program Manager, provided a brief update on the activities regarding the Hoover power allocation process. Commission staff recently met with the Nevada Legislative Committee on Public Lands and they have agreed to sponsor the Commission's proposed legislation in their Bill Draft Requests in the upcoming legislative session.

The Commission has also issued a Request for Proposals (RFP) to obtain administrative support for the regulatory activities involved in post-2017 Hoover allocations. The Commission has received several submittals. The submittals have been reviewed and interviews have been scheduled with two of the firms that submitted a proposal. Hopefully, at the November Commission meeting Commission staff will be able to make a recommendation for a contract with one of the two firms.

Additionally, Commission staff has scheduled a workshop for October 30, 2012. A representative from Western will attend this workshop. The workshop will be held to explain the post-2017 Hoover allocation processes to Nevada entities. There will be two different processes, one conducted by the Commission and one by Western. Commission staff anticipates some interested entities will want to pursue one of the processes or possibly both processes to receive an allocation for themselves.

Also, Commission staff is in the process of meeting with the other Hoover contractors in Arizona and California to discuss what should be included in the post-2017 Electric Service Contract with Western. The group has been divided into two subgroups. One is a technical subgroup whose responsibility is to review what is currently in the contract to determine what functionalities should be included in the contract such as provisions regarding scheduling and use of the Hoover resource. The other subgroup is the legal team who will make sure items from the technical subgroup, and other necessary provisions, are incorporated properly into the contract. Western, right now, is not part of this process. Western does not want to start negotiating until they have reallocated and all parties can come to the table.

Commission staff has a lot to do. With this new firm coming aboard to help Commission staff with the administrative work it should relieve some of the burden. Commission staff are moving forward and are pleased with the developments.

Chairman Ogilvie asked how the committee of Hoover contractors is organized. He asked if there is someone who is the chair.

Mr. Pyper replied if he used the word committee, it is not the right work for this group. There is no chair. There are representatives from each of the current Hoover contractors who send at least one representative that is an attorney or representing their legal interests as well as a representative who is more familiar with the operations of the dam. Right now, there are several different representatives from each organization who are attending.

Ann Pongracz, Senior Deputy Attorney General, stated the group and subgroups are organized in the same way the groups were organized when we were working on developing the principles that gave rise to the federal legislation. It is rather informal but there is good participation from various members.

Chairman Ogilvie asked Ms. Pongracz if she is the legal representation.

Ms. Pongracz replied that is correct.

Chairman Ogilvie asked if Ms. Harkins and/or Mr. Pyper are the Commission's staff representatives.

Ms. Pongracz replied that is correct. She added that there is a lot of participation from Ms. Harkins, Jim Salo, and Lisa Ray from Mr. Pyper's group. A lot of staff are making contributions from each of their different disciplines. Mr. Pyper stated all members of what is called the Hoover Allocation Team are involved in the process, just with different responsibilities. There is a meeting with the contract group this Thursday. There is the Technical Review Committee (TRC) meeting at Hoover on Wednesday. The TRC meeting is held on an annual basis. Commission staff will be attending this meeting along with other contractors from California and Arizona. Since a lot of the contractors will be there for the TRC meeting, the group will meet on Thursday to have further discussions on the contract.

**L. Comments and questions from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)**

Dave Luttrell, General Manager of LCPD, wanted to express his thanks to the Commission and staff for the good effort being put forth on Hoover. Mr. Pyper, Ms. Pongracz, Mr. Salo, Ms. Harkins and all the staff are representing our interests very well. Mr. Luttrell wanted the Commission to know, as a customer, how much he appreciates the efforts staff are putting forth on Hoover.

Mr. Luttrell also thanked the Commission for their actions on Agenda Item E and F, the Mutual Assistance Agreements with LCPD and OPD. Mr. Luttrell wanted to correct one thing that Mr. Reese said as he presented the agenda items. Mr. Reese conveyed it as a

one-way street where he anticipates LCPD and OPD assisting the Commission, if the case were to arise. In reality, these agreements came from LCPD and OPD requesting it of Commission staff. Mr. Reese has developed a very high-degree of technical expertise in the power delivery system in regard to communications, relaying, protection, and substation maintenance and testing. What the agreement is really doing is formalizing an informal relationship that has already existed between LCPD and the Commission for quite a few years. LCPD has loaned Mr. Reese materials and other items for projects in case of emergency. Mr. Reese has loaned personnel to LCPD to help solve some of their technical problems. It is very common in the industry for utilities to have mutual assistance agreements that way to provide back-up among small utilities. It is not meant to be a construction avoidance agreement. It is the way small utilities help each other solve problems and get through the emergencies.

Mr. Luttrell complimented Mr. Reese and let the Commission know what a great job he has done building his staff and LCPD is looking forward to utilizing them. Mr. Luttrell thanked the Commission for acting on the agreements.

**M. Comments and questions from the Commission members.**

Commissioner Collins stated LCPD and the Commission have been working together for a long time and it's good to have a formalized agreement. It is much easier if you need high-reach equipment or have a boom truck or auger down, to loan one out from a neighboring utility than to have to rent one out of Salt Lake City or Seattle. For example, when Hurricane Isaac hit Florida, utilities trucks were driving across the country to get to the east coast to help with repairs. Those kinds of things happen all the time and it is great to see our folks out here in southern Nevada working together.

**N. Selection of the next possible meeting date.**

The next meeting was tentatively scheduled for 1:00 p.m. on Tuesday, October 9, 2012 at the Grant Sawyer State Office Building in Suite 4401.

**O. Adjournment.**

The meeting adjourned at 1:45 p.m.

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Jayne Harkins, P.E., Executive Director

APPROVED:

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George F. Ogilvie III, Chairman