

**The meeting was held at 10:00 a.m. on Tuesday, June 12, 2007, at the Clark County Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.**

**COMMISSIONERS IN ATTENDANCE**

Chairman (By telephone)  
Vice Chairman  
Commissioner  
Commissioner  
Commissioner

Richard W. Bunker  
Jay D. Bingham  
Marybel Batjer  
Shari Buck  
Lois Tarkanian

**COMMISSIONERS NOT IN ATTENDANCE**

Commissioner  
Commissioner

Andrea Anderson  
Ace I. Robison

**DEPUTY ATTORNEYS GENERAL**

Senior Deputy Attorney General  
Senior Deputy Attorney General

Gerald A. López  
Jennifer T. Crandell

**COMMISSION STAFF IN ATTENDANCE**

Executive Director  
Manager of Regulatory and Intergovernmental Affairs  
Chief, Finance and Administration  
Assistant Director, Engineering and Operations  
Senior Energy Accountant  
Assistant Hydropower Program Manager  
Natural Resource Specialist  
Natural Resource Specialist  
Natural Resource Technician  
Office Manager  
Administrative Assistant III  
Administrative Assistant II

George M. Caan  
James D. Salo  
Douglas N. Beatty  
Robert Reese  
Gail Benton  
Jason Thiriot  
McClain Peterson  
Nicole Everett  
Anthony Miller  
Judy Atwood  
Janet L. Nuszbaum  
Donna Banks

**OTHERS PRESENT; REPRESENTING**

American Pacific Corporation  
Kummer, Kaempfer, Bonner, and Renshaw, Ltd.  
Las Vegas Valley Water District/So. Nevada Water Authority

Jack Stonehocker  
Rose Ozmon  
Sandra Reed Bottino

**COLORADO RIVER COMMISSION  
OF NEVADA  
MEETING OF JUNE 12, 2007**

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**COLORADO RIVER COMMISSION  
OF NEVADA  
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The Colorado River Commission meeting was called to order by Vice Chairman Bingham at 10:02 a.m. followed by the pledge of allegiance.

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

Executive Director George Caan confirmed that the meeting was in compliance with the Open Meeting Law.

**B. Approval of the minutes of the May 8, 2007, meeting.**

**Commissioner Batjer moved for approval of the minutes of the May 8, 2007, meeting as written, and the motion was approved by a unanimous vote of those present. Commissioner Tarkanian was not present for this vote.**

**C. Consideration of and possible action to approve the “Amendatory and Restating Agreement for Services of Independent Contractor with Electric Resource Strategies, Inc.”**

Mr. Caan stated that on July 14, 1998, the Commission originally contracted with Electric Resource Strategies, Inc., for consulting services related to electrical power resources generated and marketed by the federal government. The original agreement was for three years with a total not-to-exceed limit of \$225,000. In July of 2001, the agreement was extended to June 30, 2003, and services were expanded to include the development of electrical power facilities by the Commission and the Southern Nevada Water Authority. In July 2003, the agreement was extended to June 30, 2004, and then in 2004 the agreement was further extended to June 30, 2007. The agreement limit of \$225,000 has not been exceeded for all services performed to date.

Staff recommends amending and restating the agreement to continue consulting services that are still needed on behalf of the Commission for electrical power generated and marketed by the federal government. A new limit of \$225,000 will cover these services for the period of July 1, 2007, through June 30, 2012.

The contractor has offered exceptional services during the term of the original agreement, and with new challenges approaching the Commission, one being the Hoover Contract negotiations, the contractor’s experience and expertise will be both needed and valuable.

Accordingly, staff recommended approval of the Amendatory and Restating Agreement for Services of Independent Contractor with Electric Resource Strategies, Inc.

**Chairman Bunker moved for approval of the agreement, and the motion was approved by a unanimous vote of those present. Commissioner Tarkanian was not present for this vote.**

**D. Consideration of and possible action to approve the “Fifth Amendatory Contract for Professional Services” with the law firm of Miller, Balis & O’Neil, P.C., to extend the term of the contract.**

Mr. Caan stated that since January 2003 the Commission has utilized the services of Miller, Balis & O’Neil, P.C., (“Miller Balis”), a law firm in Washington, D.C., to provide a range of legal services relating to matters pending before or involving the Federal Energy Regulatory Commission (“FERC”). While the Commission is not currently participating in any FERC proceedings with Miller Balis as its counsel, such proceedings can be filed at any time typically with as little as 10 days’ actual notice. For the Commission to participate properly and be fully represented before the FERC, it is appropriate that Washington, D.C.-based counsel who specialize in representing clients before the FERC be retained to appear on behalf of the Commission.

This is an area of legal specialization not available to the Commission through the Attorney General’s Office. Miller Balis currently represents the Southern Nevada Water Authority (“SNWA”) before the FERC and is nationally recognized ‘FERC Counsel’ for many governmental and non-profit entities and organizations. CRC staff has and continues to work closely with this firm, and is very comfortable with their expertise, legal competence, and supportive management style. Informal guidance and advice provided by Miller Balis on an ongoing and regular basis have proven to be invaluable.

The “Fifth Amendatory Contract for Professional Services,” extends the January 17, 2003, Miller Balis contract to June 30, 2008.

**Commissioner Buck made a motion to approve the extension of the contract and the motion was approved by a unanimous vote of those present.**

**E. Consideration of and possible action to approve the “Cooperative Agreement among the City of Boulder City, the Colorado River Commission of Nevada, Lincoln County Power District No. 1, Overton Power District No. 5, and the Southern Nevada Water Authority” for the formation of the Silver State Energy Association.**

Mr. Caan stated that the parties to this cooperative agreement are all public agencies authorized by law to engage in certain activities associated with the acquisition and disposition of electric power to meet their own needs and those of their customers. They share a common desire generally to plan, develop, own, and operate jointly electrical generation and transmission facilities and enter into contracts to serve their respective electrical resource needs. To this end, the parties now wish to enter into a cooperative agreement pursuant to the Interlocal Cooperation Act (NRS 277.080 to 277.180, inclusive) to establish a separate legal entity, called the Silver State Energy Association (“SSEA”), which will have the authority to own, finance, design, develop, construct, operate, maintain, replace, schedule, hedge, and optimize power resources and contracts, for the benefit of one or more of its members.

The SSEA will be governed by a board of directors with an appointed director from each of the members. Additional public agencies may join the SSEA if their membership is approved by the governing bodies of each of the existing members. An SSEA Manager will be appointed by the board and will be responsible for all SSEA activities, including budgets, hiring, entering contracts, and authorizing expenditures within approved budgets. The administrative and general expenses of the SSEA will be funded equally by all SSEA members, except the CRC. CRC will be responsible for a share of these expenses only when it has entered into a Project Services Agreement.

Any member of the SSEA may propose a project and, if approved, a Project Services Agreement (“PSA”) will be entered into between each of the project participants and the SSEA. The PSA will govern all aspects of that project, including budgeting, voting, operations, and decision-making. Only members electing to participate will be part of each project. Types of projects anticipated are the construction and operation of generation and transmission facilities and the joint operation of pooled resources and loads.

Joint action agencies like the SSEA exist throughout the nation and have proven to be highly beneficial to small power providers similar to the parties to this agreement. The economies of scale produced by the SSEA will offer improved project development opportunities and power purchasing capabilities, the sharing of resources and expertise, and the opportunity for jointly managing energy needs. Accordingly, Staff recommended that the Commission approve the SSEA Cooperative Agreement and authorize the chairman to sign it.

Commissioner Batjer noted the broad authority given to the SSEA: own, finance, design, develop, construct, operate, maintain, replace, schedule, hedge, and optimize power resources. She asked Mr. Caan for examples of the SSEA “owning” or “designing” or “hedging” as a body.

Mr. Caan responded that the types of projects CRC and the SNWA have already done provide examples. To take one example, if the SSEA wished to consider the financing of a transmission project, it might ask the CRC to seek financing from the Interim Finance Committee or bonding authority. In order to do that, CRC would have to have in place agreements to own, operate and design before anyone would be actually willing to loan the funds. The CRC has already gone through this process with the Power Delivery Project. The CRC obtained the financing and built the project. CRC owns that project, and has hired a staff to operate and maintain it. We have to do that in order to satisfy the bondholders. With regard to hedging, that is a practice employed in CRC’s energy procurement today under contractual authority from the SNWA. Hedging enables us to keep our energy costs within a certain level. So the authority granted to the SSEA under the cooperative agreement is really no more than the type of authority granted with respect to the projects that we have already done.

Commissioner Batjer asked if it was correct that establishing the SSEA as a separate legal entity would enable it to jointly exercise the powers of its members.

Mr. López stated that that is correct. This is a cooperative agreement under the Interlocal Cooperation Act and, similar to the cooperative agreement establishing the SNWA, this one establishes a joint action powers agency that is authorized under NRS 277.110(1) to jointly exercise the powers, privileges or authority of any of its members.

Mr. Caan emphasized that if the SSEA wanted the CRC to finance a project, staff would have to come back to the Commission to seek approval to go to the Interim Finance Committee to get the necessary authority.

Commissioner Batjer stated she just wanted to have that clarified for the record.

Chairman Bunker observed that there have been several meetings over the past several months among the parties, who are trying to give some of the smaller entities the opportunity to participate in a process for developing the new power systems they need. We were asked to get involved in this by Commissioner Robison on behalf of the Overton Power District. Once we looked at it, it seemed like a good idea.

Commissioner Batjer said that she agrees with Chairman Bunker, and that obviously there are great examples of similar cooperative action throughout the country. Economy of scale can be realized, joint staff work can be utilized, and that's all to the good. She just wanted to make sure that we were clear on the authority that this body would have.

Vice Chairman Bingham then asked if there was anyone in the audience that would like to be heard on this item. No one replied.

**Chairman Bunker made a motion to approve the cooperative agreement and the motion was approved by a unanimous vote of those present.**

<p><b>F. Consideration of and possible action to approve an “Amended and Restated Network Integration Transmission Service Agreement between Nevada Power Company, the Southern Nevada Water Authority, and the Colorado River Commission of Nevada”, for service to certain SNWA electrical loads.</b></p>
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Mr. Caan that the CRC currently provides electrical service to the majority of the SNWA's pumping facilities in accordance with the authority granted to the CRC by NRS 704.787. In 2005, the CRC, SNWA, and Nevada Power Company entered into the original Network Integration Transmission Service Agreement (“Original TSA”) in accordance with the requirements of Nevada Power's Open Access Transmission Tariff on file with the Federal Energy Regulatory Commission (“Transmission Tariff”). The Transmission Tariff governs the use of Nevada Power's transmission delivery system by retail customers and use of that system is required in order for the CRC to provide energy to the SNWA. Pursuant to the requirements of the Transmission Tariff, transmission customers must designate the generation resources that they intend to use to provide energy to their electrical loads. The Original TSA is being amended solely for the purpose of updating the resource designations to replace expired contracts as well as add

three small hydropower units that will be installed by the effective date of the Amended TSA. All other terms and conditions of the original TSA remain the same. The Staff recommends approval of the amended TSA.

In addition to authorizing the executive director to sign the present amendment on behalf of the Commission, Staff recommended that the Commission authorize the executive director to approve and execute future amendments to existing Network Integration Transmission Service Agreements with Nevada Power Company because of the routine nature and frequency of such amendments, and so long as an amendment does not involve the additional expenditure of money or additional liability to the Commission.

Chairman Bunker inquired if this required any purchase or sale of power.

Mr. Caan stated that this action item does not involve a purchase or sale of power; however, it does provide for the terms and conditions and the money that we must pay in order to ensure a reliable delivery of power to our loads. There is no discretion involved, but it does involve the purchase of ancillary services to allow us to deliver that power.

Chairman Bunker asked if all of this is covered by our risk management program.

Mr. Caan stated that it is covered by our risk management program, and it is also covered by the terms and conditions of the tariffs that are approved by the Federal Energy Regulatory Commission (“FERC”).

Commissioner Batjer clarified that any such amendments involving additional expenditure of money or additional liability to the CRC would not fall into the administrative approval being sought.

Mr. Caan suggested that the only additional money that the executive director would be authorized to approve would be amounts required by revisions to the tariffs FERC might approve from time to time. We have no discretion over FERC’s revisions to a tariff, except that we may challenge the tariff before FERC. (Staff understands that should FERC authorize a tariff change that results in a material increase in the money payable by the CRC, staff would bring that amendment to the Commission for approval.)

**Commissioner Tarkanian moved to approve the amended agreement and the authorization to the executive director requested by staff, and the motion carried by a unanimous vote of those present.**

**G. Consideration of and possible action regarding the implementation of Senate Bill 301 of the 2007 legislative session relating to Commission land near Laughlin, Nevada.**

Mr. Caan stated to the Commission that the Town of Laughlin was able to watch and listen to the Commission meeting today, but would not be able to respond because of the type of connection used in the Clark County commission chambers.

Under the Fort Mohave Valley Development Law, NRS 321.480 through 321.536, the Colorado River Commission presently manages approximately 9,000 acres of land near Laughlin, Nevada. This land may be developed or disposed of with the prior concurrence of the Clark County Board of County Commissioners. Net proceeds from the sale or other disposal of Commission land within the Fort Mohave Valley are deposited in the Fort Mohave Valley Development Account pursuant to NRS 321.530, and used as provided in NRS 321.536.

In 2005, the Commission became obligated to pay certain power-related transactions remaining under a previous settlement of litigation with one of its power customers. In reviewing options available to the Commission for a source of funds to pay those legally binding obligations when due, the Commission determined that it had statutory authority to expend money under NRS 321.536(2) not only to administer the Fort Mohave Valley Development Law but also for “any other expenditures authorized by law.” In reliance on that authority, the Commission used a portion of the net proceeds from a 2005 sale of Commission land under that law to pay those power-related obligations.

Clark County questioned the Commission’s interpretation of NRS 321.536(2). On March 6, 2006, the Commission approved an agreement with Clark County, which required the parties to jointly seek legislative guidance on the matter from the 2007 legislative session. Both Senator Warren Hardy and Assemblyman Joe Hardy were instrumental in facilitating this agreement, and both jointly sponsored Senate Bill 301 in the present session.

Senate Bill 301, as introduced, removed the “other expenditures” language from NRS 321.536(2) and sought an appropriation from the state general fund to replenish the Fort Mohave Valley Development Account. In accordance with its agreement with Clark County, the Commission vigorously supported and testified in favor the bill. Nevertheless, it soon became apparent that state budgetary limitations would not accommodate the appropriation. In an effort to resolve the issue, Senator Hardy, together with representatives of the Commission, worked out a settlement that is embodied in an amendment of the bill approved by both the Senate Finance and Assembly Ways and Means committees and passed by the legislature on June 4, 2007.

As enacted, S.B. 301 does not include an appropriation to replenish the account. Instead, it transfers the powers and duties of the Commission for implementing the Fort Mohave Valley Development Law to the Board of County Commissioners of Clark County. Specifically, the act directs the Commission to transfer: (1) all public lands it holds, controls, or administers under the Development Law from the State of Nevada to Clark County; and (2) all money in the Fort Mohave Valley Development Account in the State Treasury to a newly-created Fort Mohave Valley Development Fund in the County Treasury. S.B. 301 takes particular care to ensure that the Fort Mohave Valley Development Law and the new Development Fund are administered by Clark County exclusively for the benefit of the Fort Mohave Valley and any general improvement district, special district, town or city whose territory contains all or a part of the land in that valley. The transfer of land and money from the State to the County is to begin in an orderly manner as soon as practicable after passage and approval of the bill but not later than July 1, 2007.

Upon the transfer of the money in the Development Account, Clark County is directed to assume: (1) all outstanding claims against the Commission and the State payable from the Development Account before the date of the transfer; (2) all outstanding contracts or other agreements entered into by the Commission or the State to carry out the Development Law before the date of the transfer; and (3) all outstanding obligations, debts and liabilities incurred by the Commission or the State to carry out the Development Law before the date of the transfer. Clark County is directed to indemnify and hold the Commission and State harmless against all such obligations, debts and liabilities. We understand that both money committees made it clear on the record that S.B. 301 was intended to settle the county's dispute with the Commission and the State with regard to the Commission's expenditure of Fort Mohave Valley land sale proceeds for power-related transactions.

Another provision of the bill seeks to protect the State's interests and the rights of any holders of bonds or similar obligations issued by the Commission or the State under the Development Law. As of this date, there appears to be no such outstanding bonds or obligations.

Finally, S.B. 301 directs the Commission to cooperate with the Clark County Board of County Commissioners to ensure an orderly transfer of land, money and responsibilities, as well as an exchange of book and records relating to the administration of the Fort Mohave Valley Development Law. The executive director proposes to immediately engage with appropriate county officials and representatives and with the State Land Registrar to work out a plan and timeline for this orderly transfer. The State Land Registrar can be helpful in providing an exact legal description of the land held, controlled, or administered by the Commission under the Development Law and in preparing the appropriate quitclaim deed required by the Act. Staff recommended that the Commission authorize the executive director to take all appropriate actions, including, without limitation, the execution of instruments of conveyance and other documents, necessary to carry out the purposes and provisions of Senate Bill 301.

Mr. Caan stated that what staff is asking of the Commission under this agenda item is to adopt a resolution, which you should have before you, that provides for the executive director to execute the necessary instruments of conveyance and other documents, because we have to have those documents signed and delivered by July 1, 2007, as required by S.B. 301. These include a quitclaim deed to the county, and any other documents needed to effect the transfer of funds.

Commissioner Tarkanian asked what the amount was on these suits against the CRC, and asked if it went over the \$9,000,000.

Mr. Caan stated that there was no lawsuit brought against the CRC. There was only a threat of a potential lawsuit. However, the amount of money in dispute was \$5,000,000. There is currently about \$9,000,000 in the Fort Mohave Valley Development Account today, and it will be transferred to the county as a result of this legislation.

Commissioner Tarkanian stated that S.B.301 recognizes that CRC is no longer an appropriate entity for land development and that Laughlin's development can be handled in a better way.

Mr. Caan stated that from his experience with managing the land for the past 11 years, and knowing the staffing limitations at CRC, development of land in an area as important as Laughlin should be done by an organization that has the expertise and capability to do that. Laughlin deserves no less than that, and S.B.301 makes that happen, and it provides the funding in order to make that a reality for them in the hands of county folks who understand development better than our organization does.

Commissioner Tarkanian asked if that was the primary focus of S.B. 301.

Mr. Caan responded in the affirmative. Mr. Caan added that it was very important for Senator Hardy to get in the bill that the transferred funds would continue to be a component of the resources Laughlin needs for future development. They deserve no less.

Vice Chairman Bingham then asked if there were any other questions.

Commissioner Buck stated that she had the opportunity to visit the legislature on Memorial Day and she caught glimpses of Mr. Caan as he went from meeting to meeting with all the different people that he needed to speak with. Commissioner Buck said that she has always been impressed with Mr. Caan, and knows the good relationships he has in the legislature and that he represents the CRC very well. She added that he has accomplished something that ends up being good for all of us. Commissioner Buck said she appreciates Mr. Caan's efforts; he is a man of integrity and he has built very good relationships; people trust him and know that his word is good. She thanked Mr. Caan for all of his efforts.

**Commissioner Buck made a motion to approve the resolution and the motion was approved by a unanimous vote of those present. A copy of the adopted resolution is attached to these minutes. (See Attachment A.)**

**H. Update on Nevada's Colorado River water consumption, the status of discussions regarding shortage criteria, and other developments on the Colorado River.**

Natural Resource Specialist McClain Peterson gave a presentation regarding water supply in the Colorado River system, an update on the systems drought status, and the use of water from the Colorado River in 2006, a copy of which is attached hereto and made a part of the minutes. (See Attachment B.)

**I. Comments and questions from the public and discussion. (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 will be taken).**

There were no comments or questions from the public.

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

There were no comments or questions from the Commission members.

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

The next Commission meeting is scheduled for Tuesday, September 11, 2007, at the Grant Sawyer State Office Building, Suite 4401.

**Commissioner Anderson made a motion to approve the next meeting date and place, which was approved by a unanimous vote.**

**L. Adjournment.**

The meeting adjourned at 10:48 a.m.

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George M. Caan, Executive Director

APPROVED:

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Jay Bingham, Vice Chairman