

The meeting was held at 10:00 a.m. on Tuesday, September 12, 2006, at the Grant Sawyer Building, 555 East Washington Avenue, Suite 4401, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Acting Chairman
Commissioner
Commissioner
Commissioner
Commissioner

Ace I. Robison
Andrea Anderson
Marybel Batjer
Shari Buck
Myrna Williams

COMMISSIONERS NOT IN ATTENDANCE

Chairman
Vice Chairman

Richard W. Bunker
Jay D. Bingham

DEPUTY ATTORNEYS GENERAL

Senior Deputy Attorney General
Senior Deputy Attorney General

Gerald A. López
Jennifer T. Crandell

COMMISSION STAFF IN ATTENDANCE

Executive Director
Energy Services Group Manager
Manager of Regulatory and Intergovernmental Affairs
Chief, Finance and Administration
Division Chief, Water
Hydropower Program Manager
Program Officer II
Natural Resource Specialist
Natural Resource Specialist
Senior Energy Accountant
Energy Accountant
Power Supper Planner
Manager of Planning & Analysis
Senior Energy Accountant
Network Administrator
Office Manager
Office Manager
Administrative Assistant II
Administrative Assistant II
Administrative Assistant II

George M. Caan
Gail A. Bates
James D. Salo
Douglas N. Beatty
James H. Davenport
Craig Pyper
Lisa M. Ray
McClain Peterson
Nicole Everett
Mike Gonzales
Rich Sanders
Tom Patmavanu
Damon E. Dade
Gail Benton
Kaleb Hall
Deanna Bruno
Judy Atwood
Janet L. Nuszbaum
Alena Adrianse
Donna Banks

OTHERS PRESENT; REPRESENTING

American Pacific Corporation
Boulder City, City of
Colorado River Commission of Nevada

Jack Stonehocker
Ned J. Shamo
Sara A. Price

OTHERS PRESENT; REPRESENTING - continued

Kummer, Kaempfer, Bonner, and Renshaw, Ltd.
Las Vegas Valley Water District/So. Nevada Water Authority
Nevada Power Company
Overton Power District No. 5
Southern Nevada Off-road Racing Enthusiasts (SNORE)
Southern Nevada Off-road Racing Enthusiasts (SNORE)
Southern Nevada Water Authority
Southern Nevada Water Authority
Southern Nevada Water Authority

Michael Phillips
Sandra Reed Bottino
Dave Baumgartner
Delmar Leatham
Ken Freeman
Don Wall
John Evans
Scott Krantz
Gary Wood

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF SEPTEMBER 12, 2006**

INDEX

<u>Agenda Item</u>	<u>Subject</u>	<u>Page No.</u>
A.	Conformance to Open Meeting Law.....	1
B.	Approval of minutes of the August 8, 2006, meeting.....	1
C.	Consideration of and possible action on a request from the Southern Nevada Off-Road Enthusiasts (SNORE) for entry upon Colorado River Commission land near Laughlin, Nevada, to hold an off-road vehicle race.....	1-2
D.	Consideration of and possible action to approve a personal services contract with James H. Davenport LLC, managing member James H. Davenport, Esq.....	2-3
E.	Update on the status of discussions regarding shortages criteria and other developments on the Colorado River	3-5
F.	Briefing on Energy Services risk management organization structure and internal procedures.....	6
G.	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).....	6
H.	Comments and questions from the Commission members.....	6
I.	Action to select next meeting date and adjourn.....	6-7

The Colorado River Commission meeting was called to order by Acting Chairman Robison at 10:05 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 August 8, 2006, meeting.

Commissioner Williams moved for approval of the minutes of the August 8, 2006, meeting as written, and the motion was approved by a unanimous vote of those present. Commissioner Batjer was not present for this vote.

C. Consideration of and possible action on a request from the Southern Nevada Off-Road Enthusiasts (SNORE) for entry upon Colorado River Commission land near Laughlin, Nevada, to hold an off-road vehicle race.

Mr. Caan stated SNORE is one of the groups that come to us periodically to seek permission to hold their off-road vehicle race partially on land owned by the Colorado River Commission in Laughlin. We have had a good relationship with this organization.

The Southern Nevada Off-Road Enthusiasts (SNORE) has requested entry upon Commission land near Laughlin, Nevada, to conduct its annual off-road vehicle racing event on Saturday, November 11, 2006. The Commission has approved similar requests by SNORE in previous years. SNORE informs the Commission that part of the proceeds from this race event will support the local Make-A-Wish charity.

As in past years, a small portion of the race course runs over Commission property; the rest is located on Bureau of Land Management (BLM) land. The entire course follows existing motorcycle, all-terrain vehicle or buggy courses, jeep trails, old roads, power line access roads or sandy washes. The racecourse for this year is identical to the course which has been used between 1994 and 2003, and avoids all proposed critical desert tortoise habitat areas.

Staff's efforts to reach a more specific understanding with SNORE concerning how the Commission's land may be used for this racing event have been well-received. SNORE's request for entry on CRC land was delivered early in 2006, well in advance of the scheduled race. The following proposed conditions have all been agreed to in writing by SNORE.

Staff recommends that the Commission approve this request upon these conditions:

1. SNORE must comply with BLM's policy and procedures for implementation of Section 7 of the Endangered Species Act.
2. SNORE must protect the State of Nevada and its Colorado River Commission through an insurance policy or rider showing the State of Nevada and its

Colorado River Commission as additional insureds, accepting liability for any injury to person or property in the amount of \$1,000,000, in a form acceptable to the staff.

3. The race course must be the same course as was used in 2003.
4. Neither the race pit area nor any spectator stands or spectator areas may be located on Commission land.
5. Grading on Commission land must be done only where there are existing utility easements, and, after the race, all areas affected by the grading or race activity must be graded and returned to pre-race conditions. Any grading must be done in conformance with applicable law, including the underground utility "One Call" program.
6. No service roads for the race or staging areas for race-related personnel will be located on Commission land.
7. To assure that any environmental or hazardous material problems associated with the race are properly and lawfully resolved and cleaned-up, SNORE must retain a professional safety and clean-up company which is trained to handle such situations under guidelines established by the BLM and the Fish and Wildlife Service.

In compliance with Section 7 of the Endangered Species Act, the BLM several years ago obtained from the Fish and Wildlife Service a "programmatic" Biological Opinion covering all speed-based events on the BLM and Commission land in the Laughlin area. (Under a "programmatic" opinion, consultation is not required for each such event during the life of the opinion.) Apart from the desert tortoise, no other federally-listed species appear to be impacted in these events. The opinion allows for limited incidental take of desert tortoise and specifies terms and conditions required of event promoters and enforced by the BLM.

Acting Chairman Robison asked if there were any questions from the members of the Commission.

Commissioner Anderson added that SNORE also holds an off-road race outside Boulder City, pretty much yearly, and they have always been good to work with and have done a very good job.

Commissioner Anderson moved for approval of the off-road race, and the motion was approved by a unanimous vote of those present. Commissioner Batjer was not present for this vote.

<p>D. Consideration of and possible action to approve a personal services contract with James H. Davenport LLC, managing member James H. Davenport, Esq.</p>

Mr. Caan stated that Mr. James Davenport has served the Commission since 1996, first as a senior deputy attorney general assigned to the Commission, and since 1999 he has served as Chief of the Water Division. Mr. Davenport serves as the CRC's technical representative to the various Colorado River forums. He is an internationally respected

lawyer and water professional. He is also a sage advisor to this director on a whole host of water and non-water related issues. Mr. Davenport and I have been discussing for a number of months his return to private practice, where he was before he joined the Commission. Mr. Davenport wishes to return to private practice. Fortunately for the Commission, he is willing to serve the Commission in private practice; to continue to represent the CRC and the State of Nevada in these important forums. The contract before the Commission is a contract between the CRC and James H. Davenport LLC to provide these services for a term extending until June 30, 2009, which is the end of the next biennium, for a maximum not-to-exceed cost of \$500,000. This contract has been prepared and reviewed by the Attorney General's office and needs to be approved by the State Board of Examiners before it can take affect. Mr. Caan added that he was recommending approval of this agreement.

Commissioner Williams asked if we will have to fill Mr. Davenport's position as chief of CRC's water division.

Mr. Caan stated that his expectation from discussions with Mr. Davenport is that for the foreseeable future, CRC will have his full attention, and so, with his full attention, CRC will not have to re-fill the position. In the future, if Mr. Davenport decides that he wishes to pursue other opportunities and he starts to reduce the amount of attention and time he could spend with the Commission, then we will look at whether or not we are going to replace him. But for the foreseeable future, Mr. Caan stated that he does not plan on re-filling the position.

Commissioner Williams made a motion to approve the contract between the Colorado River Commission and James H. Davenport LLC and the motion was approved by a unanimous vote of those present.

Acting Chairman Robison added that Mr. Davenport has been a great support and educator, not only to Mr. Caan and others, certainly himself, and thanked Mr. Davenport for that, for his service, and for his continued service.

<p>E. Update on the status of discussions regarding shortages criteria and other developments on the Colorado River.</p>

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 A.)

Acting Chairman Robison asked, to what do we attribute the reported increase in water consumption over the last year?

Mr. Peterson replied that causes include an increase in population, not as favorable hydrology as there was in 2004, and it has been a much dryer year.

Commissioner Williams asked if population growth is factored in.

Mr. Peterson stated not independently. Population growth is seen in the result of the numbers, but no estimates of the effect on population growth are made.

Commissioner Williams stated that she believes people have become complacent. We have so many new people that move thinking that they're still in Vermont, and what we need to do is to get busy with aggressive marketing of conservation.

Acting Chairman Robison stated that that was the thrust of his question. Is the increase in water consumption a reflection of an inadequate focus on conservation?

Commissioner Batjer added that we as a community are losing a little bit of the edge that we had in the last two years. Not only is that dangerous just in general, but there are so many competing factors right now. Last year was a wetter year. Absent new assurances of other water supplies heading our way, she believes that constant and continued education of the people of this community is extremely important and whatever we can do to enhance that or support that as a body we need to do.

Mr. Davenport stated that there has not been a Seven States meeting since the last Commission meeting. However, a Seven States Technical Committee Meeting was held in Phoenix on August 22, 2006, and a Lower Basin States Meeting occurred in San Diego on August 31, 2006. One item discussed there is a subject which is referred to as a "hydrologic determination." This is a finding by the Bureau of Reclamation which was made in support of the Navajo-Gallop Project in New Mexico, giving rise to some controversy between the upper and lower basin. The findings of the Bureau of Reclamation were premised on the upper basin's view of Colorado River law. The lower basin states disagree whether that is an appropriate reliance or whether different assumptions should be made. This should not result in a long-term conflict, but it is something which is currently in discussion in the Seven States.

The other topic of some interest at the lower basin states meeting recently is the Treaty with Mexico and the basis under which the United States could impose a portion of the shortage, should there be one, on Mexico. There is additional work to be done on the legal questions here about how the United States imposes shortage on Mexico. The assumption of the lower basin states has been that Mexico should share 17 percent of the shortage. That is the recommendation in the Seven States' letter to the Secretary of last January. Whether that is a solid number or whether there is a different means which must be utilized in order to determine that percentage is something that will continue to be studied. But there is general feeling in the United States that Mexico should share in a shortage, should we have one.

The draft Environmental Impact Statement (EIS) for the shortage rule was scheduled to be published in December of 2006. There is some slippage in the schedule. It is an important document because it is the vehicle through which we would know whether Nevada's augmentation ideas, which are in the Seven State proposal, have been endorsed by the Secretary and will actually come to fruition. We now know that there are several

alternatives that will be discussed in that environmental impact statement. There is the “no-action alternative”, which means you try to characterize the way things are going now, the status quo. The problem with that analysis is that the status quo is ad hoc. Defining that into a program is difficult.

The second alternative is the “Basin States Alternative”, the one that was made by the Seven States’ letter of February 3, 2005.

The third alternative is the “Conservation Before Shortage Alternative”, which is now in its second version. This is an alternative that was proposed by the environmental community, basically to create a fund which would be raised by monies from the U.S. Treasury, as well as contributions from the power and water users in the lower Colorado, which fund would be used to purchase conservation in agriculture, to fallow lands, to create non-use of water. This would be done before a shortage occurred. It has been revised so as to suggest that the same conservation opportunities might be pursued in Mexico.

The next alternative is a “Reservoir Storage Alternative”, which is a proposal that has been made by the recreation users and the recreation agencies of the United States, which would generally be a management of Lake Mead and Lake Powell, which would leave more water in them. It would cause shortages to occur sooner, obviously, because water would need to be retained in the reservoirs for recreation purposes.

The last alternative is a “Water Supply Alternative”. This alternative presumes that there would be no shortage protection in the reservoirs, but that all of the water contract deliveries would be served and the water level would be permitted to go “to the mud” in the bottom of the two lakes. The reason that this alternative is included is that the Bureau of Reclamation wants to be able to defend that it has considered all potential alternatives for management of those reservoirs. The Basin States Alternative still appears to be the preferred alternative, but we will not necessarily know in December or January that the Bureau has made that choice, although they could make it by then.

Acting Chairman Robison asked if the draft EIS is a little late, is that going to impact the schedule of the final EIS.

Mr. Davenport stated that he hoped not, and added that the newly nominated Commissioner of the Bureau of Reclamation is very committed to this timeline, and added that he is likely going to want to get this done in December of 2007, as he had originally seen the schedule.

Commissioner Batjer then asked if we anticipate any changes because we have had a change in the Secretary’s office?

Mr. Davenport stated that so far we have not seen any indication of any less commitment of this Secretary to this agenda.

F. Briefing on Energy Services risk management organization structure and internal procedures.

Mr. Caan introduced the briefing by recalling that in 1996, the Colorado River Commission began the construction of its Power Delivery Project with \$75 million to build electrical power facilities to support the Southern Nevada Water Authority's (SNWA) new water treatment and distribution facilities. A tremendous amount of power would be required for pumping. The SNWA was looking into how it could get an independent power supply, and manage the cost of pumping water into the valley more effectively. The CRC, in 1998, started procuring power with a very small staff and a limited knowledge of the electricity markets. In the intervening years, staff has pursued a policy of working more closely with all CRC's power customers. Recently, the Commissioners all received a copy of an article of a visit that our Hydropower team made to the Lincoln County Power District, which got excellent coverage. The team also made a visit to Valley Electric two weeks ago, to show what we do and to allow the customer to ask questions, basically to see what they are paying for. We have had similar visits with the SNWA, but in 2004 we went further. CRC Energy Services staff co-located with their SNWA counterparts by moving into the SNWA offices on Flamingo. Energy Services Manager Gail A. Bates is going to provide an update on Energy Services. It has been a great relationship between the Colorado River Commission and the Southern Nevada Water Authority. It has worked very well. Ms. Bates volunteered to be reassigned from her duties as deputy director in order to manager the creation and operation of the Energy Services group.

Ms. Bates and Damon Dade, Manager of Planning & Analysis, provided a briefing on Energy Services risk management organization structure and internal procedures, a copy of which is attached hereto and made a part of the minutes. (See Attachment B.)

G. 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.

H. Comments and questions from the Commission members.

There were no comments or questions from the Commission members.

I. Action to select next meeting date and adjourn.

The next Commission meeting is scheduled for October 10, 2006, at the 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.

The meeting adjourned at 11:03 a.m.

George M. Caan, Executive Director

APPROVED:

Ace I. Robison, Acting Chairman