

The meeting was held at 10:00 a.m. on Tuesday, August 8, 2006, at the Sawyer State Office Building, 555 East Washington Avenue, Suite 4401, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Chairman	Richard W. Bunker
Commissioner	Myrna Williams
Commissioner	Ace I. Robison
Commissioner	Marybel Batjer
Commissioner	Shari Buck

COMMISSIONERS NOT PRESENT

Vice Chairman	Jay D. Bingham
Commissioner	Andrea Anderson

DEPUTY ATTORNEYS GENERAL

Senior Deputy Attorney General	Gerald A. López
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COMMISSION STAFF IN ATTENDANCE

Executive Director	George M. Caan
Energy Services Group Manager	Gail A. Bates
Manager of Regulatory and Intergovernmental Affairs	James D. Salo
Division Chief, Finance and Administration	Douglas N. Beatty
Assistant Director for Engineering and Operations	Bob Reese
Division Chief, Water	James H. Davenport
Natural Resource Specialist	McClain Peterson
Senior Energy Accountant	Gail Benton
Network Administrator	Kaleb Hall
Office Manager	Judy Atwood
Administrative Assistant II	Brenda Haymore
Administrative Assistant II	Janet Nuszbaum
Administrative Assistant II	Donna Banks

OTHERS PRESENT; REPRESENTING

AMPAC	Jack Stonehocker
Bunker & Associates	Melissa Trammell
Tronox, L.L.C.	Rick Stater
Tronox, L.L.C.	John Holmstrom
Kummer, Kaempfer, Bonner, Renshaw & Ferrario, Ltd.	Michael Phillips
Las Vegas Valley Water District	Mike Weintz
Overton Power District No. 5	Delmar Latham
PAR Electrical Contractors, Inc.	Mike Hubsy

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF AUGUST 8, 2006**

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The Colorado River Commission meeting was called to order by Chairman Bunker at 10:00 a.m. followed by the pledge of allegiance.

A. Conformance to Open Meeting Law.

Mr. Caan confirmed that the meeting was in compliance with the Open Meeting Law.

B. Approval of minutes of the June 13, 2006, meeting.

Commissioner Williams moved for approval of the minutes. The motion was approved by a unanimous vote.

C. Consideration of and possible action on award of Contract No. CRCPDP-22 for construction of the Hacienda Substation Upgrade Project.

Mr. Reese explained that prior to the start of the bidding process for construction of the project, CRC pre-qualified five construction contractors who were regularly engaged in the construction of high-voltage substations. Four of the five contractors had previously provided services to the Commission.

On May 26, 2006, Contract No. CRCPDP-22 was released for bidding purposes, in accordance with the requirements of NRS Chapter 338 governing public works projects and the Commission's "Procedures for Award of Construction Contracts for the Power Delivery Project." Copies of bid documents and specifications were placed on file with three local plan rooms—Construction Notebook, Sierra Plan Room, and F.W. Dodge.

Through the public notification process, four additional bidders contacted CRC and obtained copies of the bidding documents.

On June 8, 2006, a mandatory pre-bid meeting and site tour was held to ensure the prospective bidders fully understood the scope of work contained in Contract No. CRCPDP-22. Six contractors interested in bidding the work as a prime contractor attended the pre-bid conference. These contractors were Hampton Tedder, Henkels & McCoy, NAES Power Contractors, PAR Electrical Contractors, St. George Contracting, and Wasatch Electric.

On July 12, 2006, four bids for Contract No. CRCPDP-22 were received. The bidders were:

Contractor	Corporate Location	Bid Amount
PAR Electrical Contractors, Inc. <i>(5% Nevada Bidders Preference)</i>	Kansas City, Missouri	\$1,102,358.00 <i>\$1,047,240.10</i>
NAES Power Contractors, Inc.	Issaquah, Washington	\$1,083,968.23
Henkels & McCoy, Inc.	Blue Bell, Pennsylvania	\$1,167,702.00
Wasatch Electric	Salt Lake City, Utah	\$1,982,632.42

Staff evaluated the bids received in accordance with NRS Chapter 338 and the Commission's "Procedures for Award of Construction Contracts." Based upon this review, staff concluded the bid of PAR Electrical Contractors, Inc. (PAR) was the lowest evaluated bid. Determination of the lowest evaluated bid includes consideration of "bidder preference" in accordance with NRS 338.147. Bidder preference for public works projects is given to those contractors who have obtained a valid certificate of eligibility to receive a preference in bidding on public works issued by the State Contractors' Board. Bidder's holding certificates of eligibility are provided "bidder preference" on public works amounting to 5 percent of their bid price for bid evaluation purposes.

Accordingly, staff recommended the award of Contract No. CRCPDP-22 to PAR Electrical Contractors, Inc., for \$1,212,593.80 which includes a 10 percent contingency for change orders and quantity adjustments.

Commissioner Buck moved to accept staff's recommendation. The motion was approved by a unanimous vote.

<p>D. Consideration of and possible action on the adoption of the Colorado River Commission fiscal 2008 and 2009 budget.</p>

Mr. Caan reminded the Commission that every two years the budget is developed in-house by staff and reviewed by CRC's hydropower customers and the SNWA. From that review a final draft is developed and brought before the Commission for its approval. Once approved by the Commission, the budget will be submitted to the Governor for inclusion in the Executive Budget. The Executive Budget is then presented to the Legislature for the upcoming session.

Mr. Caan said Mr. Beatty has developed an overview of some of the highlights of the budget that may help give historical perspective on the Commission as it has evolved over the years.

Mr. Beatty offered a slide presentation focusing on the Commission's historical budget allocations as opposed to its current distribution. Prior to 1970, the majority of the budget was allocated for hydropower activities. From 1985 through 1990, the budget was evenly split between water and hydropower activities. However, from 1990-1995 water activities comprised 62% of the budget. Once the operation of the Southern Nevada Water System was assumed by the Southern Nevada Water Authority, 95% of the budget was for hydropower/power marketing activities. By 2006, with the Power Delivery Project built and operating to supply power in support of SNWA's water pumping activities, the budget for hydropower was down to 29% and the Power Delivery/Power Procurement budget was at 71%.

Mr. Beatty distributed to the Commission members the Colorado River Commission's Proposed Budget for Fiscal 2008 and 2009. A copy of the budget is attached and made part of the minutes. (See Attachment A)

Mr. Beatty reviewed the following items from the budget for the Commission:

- **Tab T—Cost Allocation Detail:** Outlines the cost center and percentage of time assigned to that cost center for each Commission employee; costs are applied as either direct or indirect costs.
- **Tab Q—Water Special Projects:** Includes proposed costs for publication of Mr. Davenport’s second water law book and additional water symposiums hosted by the Colorado River Commission of Nevada.
- **Tab O—Contract Services:** Includes water-related studies and consultations funded by SNWA.
- **Tab G—Salary Costs:** Outlines additional position requests (*Senior Power Facilities Electrician and Power Facilities Communications Technician*), reclassifications of current positions (*Accountant II to Senior Energy Accountant and Accountant I to Energy Accountant*) and deletion of an unnecessary position (*Accountant Technician*).

Mr. Caan pointed out that with the Commission’s support, many of the positions have been changed from the classified service to an unclassified service. This has allowed the Commission to go out into the marketplace and find top-notch people. With the backing of the legislature, nearly all positions have been changed to the unclassified service.

Mr. Beatty continued his review of the budget:

- **Tab F—Budget Summary:** Summarizes the CRC General Fund presentation where most of the activities of the people are concerned.
- **Tab E—Hydropower Administrative Charge:** Of all the revenue sources, this is the one that is focused on most because it takes six months to change and is linked to all the Commission’s hydropower customers. The administrative charge is frequently reviewed with the customers and the proposed charge for FY 2008/2009 is in line with the six-year historical average.
- **Tab D—Fort Mohave Development Fund:** No new efforts, land sales, etc. are planned for the upcoming biennium. However, \$5,000,000 for FY 2008 and \$4,500,000 for FY 2009 has been budgeted for Clark County for capital improvements in Laughlin.
- **Tab C—Research and Development Fund:** No new activities in this fund.
- **Tab B—Power Delivery Project Fund:** No new projects anticipated, just a continuation of SB 211 services, general transmission costs, operations and maintenance and construction of a few in-valley pumping stations, but no major capital projects.
- **Tab A—Power Marketing Fund:** Nothing new anticipated in this fund.

Mr. Beatty reported that in the last several years, staff has attempted to significantly improve its customer relations. Improvements were made to the power billing and scheduling programs, which were problematic for a number of years, and are now available online in a secure yet open system due to a focused effort by Commission staff.

Mr. Beatty reminded the Commission that in early 2004 it was projected that the hydropower administrative charge would be insufficient for the Commission’s activities. After discussions with the customers, the administrative charge was increased with the promise that the charge would be reviewed each year. A significant reserve was projected for 2006, in large part due to

reductions in staff. It is therefore proposed to the Commission and its hydropower customers that the current budget contain a refund of \$450,000. That refund should be accomplished within the next month or so with the closeout of the fiscal year.

Chairman Bunker credited Mr. Caan with facilitating the technological changes and improvements through hiring outstanding staff to bring the Commission to where it is today. He said he was glad the rebate is available for the customers and hopes that with continued good management there will be future rebates.

Commission Robison complimented staff on the budget presentation and its efficiency as a power purveyor.

Commissioner Williams commended Chairman Bunker on his many efforts at every level of government to make the Commission a well-run agency that interfaces so well with its customers and other entities.

Commissioner Batjer moved to adopt the proposed budget. The motion was approved unanimously.

E. Environmental Litigation

- 1. Consideration of and possible action to ratify the Colorado River Commission's intervention in *Center for Biological Diversity, et al., v. Bureau of Reclamation*, Case No. CV-0494-PCT-DGC, relating to the operations of Glen Canyon Dam.**
- 2. Report on *Consejo de Desarrollo Economico de Mexicali, et al. v. United States*, CV-0870-PMP-LRL, relating to the All American Canal.**

Mr. Davenport explained that of the two cases on the agenda, the first case will require Commission action and the second one will not.

Regarding the *Center for Biological Diversity, et al., v. Bureau of Reclamation* case, Mr. Davenport reported the plaintiffs in the case raised three substantive issues. First was violation of the Grand Canyon Protection Act. Second was violation of the Endangered Species Act (ESA). Third was violation of the National Environmental Policy Act (NEPA). The remedy that is sought in the case is a re-consultation under the ESA between the U.S. Bureau of Reclamation (Bureau) and the U.S. Fish and Wildlife Service. What they seek is that the Bureau supplement and update the Environmental Impact Statement, which was published by that agency in 1995. A number of parties have sought to intervene in this case including the Colorado River Commission of Nevada, the Southern Nevada Water Authority, Imperial Irrigation District, Metropolitan Water District of Southern California and the Central Arizona Water Conservation District. The motions to intervene are pending. There is a briefing schedule on a motion to dismiss that was filed by the United States on the violation of the Grand Canyon Protection Act issue. A meeting with the judge is scheduled for September 21, 2006, to discuss case management. It is expected he will rule on the intervention of parties at that time.

Mr. Davenport asked that the Commission ratify the action taken in filing the intervention on its behalf in this case.

Commissioner Williams moved to ratify the intervention in this case. The motion was seconded by Commissioner Robison and approved by a unanimous vote.

Regarding the *Consejo de Desarrollo Economico de Mexicali, et al. v. United States* case, Mr. Davenport explained that the plaintiff is an economic development and advocacy group which houses itself in and around the Mexicali area. There are also environmental plaintiffs in the case. The plaintiffs have recently sought to have the All American Canal re-lining construction stopped for as long as it took to republish the Environmental Impact Statement, which was done by the Bureau of Reclamation seven years ago.

On July 3, 2006, Judge Pro of the federal district court in Las Vegas ruled on all matters pending in the case. He determined that the United States/Mexico Water Treaty of 1944 is completely and wholly determinative of all international water issues with respect to the Colorado River, including the seepage from the All American Canal. The effect of that determination was that if the plaintiffs had any claim to the seepage it had to have come under the Treaty. Since Mexico was being fully supplied under the Treaty there was no basis for any claim.

The second finding was that the economic development committee does not have standing to assert a constitutional claim to property under the United States Constitution.

The third determination was that NEPA does not require the Bureau of Reclamation to consider environmental impacts in another nation.

Mr. Davenport said that in his rulings, Judge Pro stated some very important principles that are relevant to the Colorado River and environmental management of the Colorado River. The plaintiffs have appealed the case to the 9th Circuit Court. The plaintiffs want to enjoin the construction of the lining of the All American Canal while the case is heard before the 9th Circuit. In order to make that motion, a motion to the district court judge for the same remedy is required. They have done that and that is in the briefing process. The appeal is expected to move through the 9th Circuit to briefing and argument over the course of the next few months.

F. Notification of receipt of the Government Finance Officers Association's award of the Certificate of Achievement for Excellence in Financial Reporting for the Commission's annual financial report for the fiscal year ended June 30, 2005.

On behalf of the Commission, Chairman Bunker commended Mr. Beatty and the financial staff for again receiving this award.

Mr. Caan said this is the 28th consecutive year that the Commission has received this award.

G. Update on the status of discussions regarding shortages criteria and other developments on the Colorado River.

Mr. Davenport reported that the 2007 Annual Operating Plan process has begun. It appears that partial domestic surplus is the determination for the operating system for the year, which is indicated by the August prediction of the levels of water in Lake Mead on January 1, 2007. Parties have elected not to take any surplus so the year will be considered a normal operating year.

The Secretary of the Interior is engaged in developing a shortage rule on the river—that process is fully underway. The scoping for the environmental analysis is complete, the alternatives chosen and published and there will be a draft Environmental Impact Statement by December 2006.

Mr. Davenport reported that a seven-basin states meeting was held in which a tentative decision was reached to put together a weather modifications program in which the lower basin states would assist the upper basin states with fiscal support to extend the period of cloud seeding to both the spring and the fall.

Mr. Davenport mentioned the appointment of Robert W. Johnson to become the Commissioner of Reclamation. He felt it is a real plus to have a Nevadan appointed who is familiar with all the Colorado River Basin issues and who has been very open and helpful to the State of Nevada. Nevada can look forward to a positive situation with Mr. Johnson in that position.

McClain Peterson, Natural Resources Analyst for the Commission, provided a report on storage conditions on the Colorado River, water use in Nevada, drought conditions in the west and forecasted water use in the lower basin states. A copy of the report is attached and made part of the minutes. (See Attachment B)

Commissioner Batjer expressed concern with the lower recharge amounts shown for this year as opposed to other years and how that will affect future water availability.

Mr. Peterson explained that recharge is linked to valley water use—if there is a need for more water, that lowers the amount that will be recharged.

Chairman Bunker said that is one of the reasons that conservation is critical to keep the water use numbers down to allow recharge.

Commissioner Williams said that conservation needs to be aggressively pursued. Data has shown that when conservation is aggressively promoted, water use goes down. The turf replacement program has been an extremely successful effort in conserving water since turf uses a huge amount of water.

Commissioner Robison asked whether the drop in water usage in 2005 was due mainly to conservation.

Mr. Peterson said it involved a couple of factors which included aggressively promoting conservation and the fact that there was a lot of precipitation in 2005.

H. 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.)

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

I. Comments and questions from the Commission members.

Chairman Bunker reported that he has been working with other state officials on negotiations between the State of Utah and the State of Nevada with regards to the Snake Valley water allocation and water budget. A request was made of the Governor's office to assign legal counsel to assist the State of Nevada in the negotiations and Mr. Davenport was assigned that task. The negotiations are in the beginning stages so there is not much to report.

J. Action to select next meeting date and adjourn.

The next meeting was tentatively scheduled for 10:00 a.m. on September 12, 2006, at the Sawyer State Office Building.

The meeting adjourned at 11:17 a.m.

George M. Caan, Executive Director

APPROVED:

Richard Bunker, Chairman