

The meeting was held at 10:00 a.m. on Tuesday, November 12, 2008, at the Grant Sawyer State Office Building, 555 East Washington Avenue, Suite 4500, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Chairman	Jay D. Bingham
Commissioner	Marybel Batjer
Commissioner	George F. Ogilvie III
Commissioner	Lois Tarkanian

COMMISSIONERS NOT IN ATTENDANCE

Vice Chairman	Ace I. Robison
Commissioner	Andrea Anderson
Commissioner	Chip Maxfield

DEPUTY ATTORNEYS GENERAL

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

COMMISSION STAFF IN ATTENDANCE

Executive Director	George M. Caan
Deputy Executive Director	James D. Salo
Assistant Director for Engineering and Operations	Robert Reese
Manager, Energy Services	Gail A. Bates
Hydropower Program Manager	Craig N. Pyper
Assistant Hydropower Program Manager	Jason Thiriot
Manager, Natural Resources Group	McClain L. Peterson
Natural Resource Analyst	Nicole Everett
Natural Resource Analyst	Esther Valle
Senior Energy Accountant	Gail L. Benton
Network Administrator	Kaleb Hall
Office Manager	Judy Atwood
Administrative Assistant IV	Brenda Haymore
Administrative Assistant II	Gina Goodman

OTHERS PRESENT; REPRESENTING

Consultant	Sara Price, Esq.
Overton Power District No. 5	Mendis Cooper
Tronox, Inc.	John Holmstrom

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF NOVEMBER 12, 2008**

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The Colorado River Commission meeting was called to order by Chairman Bingham at 10:00 a.m.

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 October 14, 2008 meeting.

Commissioner Batjer moved for approval of the minutes. The motion was seconded by Commissioner Tarkanian and approved by a unanimous vote.

C. Consideration of and possible action to approve a contract with Oasis Consulting Services.

Deputy Executive Director James Salo reported that a decision was made to pursue an organizational development activity to improve communication within agency departments and increase the effectiveness of staff with the help of an outside consultant, Oasis Consulting Services (Oasis).

Oasis provides expert consulting services for optimizing organizational effectiveness and improving communication skills. In the past, Oasis has been retained by the State of Nevada Personnel Department to conduct the Certified Public Manager Program, and the firm has assisted many state and federal government agencies with assessment, change management, and communication.

Mr. Salo said that Oasis has been tasked with tapping into the resources of the employees by talking to all staff members and helping refine and define the goals and missions of the agency and to ensure that all employees have a common understanding for those goals and missions. Agency changes include the division of staff into three physical locations which inherently carries the potential for communication difficulties. One ideal end product of this process is that all employees could comfortably answer questions about the agency.

Three companies were approached regarding their interest in handling this process. Two of the companies declined to respond.

The contract will authorize Oasis to assist the Commission staff with assessing current and future objectives, improving work performance, and enhancing communication within the Commission and between staff and stakeholders. The contract has a not-to-exceed limit of \$8,500.00.

Commissioner Batjer said she felt this was an excellent idea, and that it is done all too infrequently in government. She was pleased to see this item and felt it was a good exercise to undertake.

Commissioner Tarkanian said that sometimes these consulting efforts can go overboard. That does not seem to be the case with this process. It is reasonable and has been planned in phases. It is not that expensive and seems very worthwhile.

Chairman Bingham asked why Oasis is required to have insurance.

Mr. Salo explained the insurance coverage is a requirement of state purchasing for all of its contracts.

Commissioner Tarkanian moved to approve the contract. The motion was seconded by Commissioner Batjer and approved by a unanimous vote.

D. Consideration of and possible action to adjust the amount of collateral the Commission's retail industrial customers are required to post pursuant to their contracts with the Commission.

Craig Pyper, the Commission's Hydropower Program Manager, stated that NRS 538.181(2) requires the Commission's power contractors (customers), except a federal or state agency or political subdivision, to provide an indemnifying bond or other collateral approved by the Nevada State Board of Examiners "in such sum and in such manner as the Commission may require, conditioned on the full and faithful performance" of their power contracts. Accordingly, every contract under which the Commission sells power to customers affected by this statute contains provisions for collateral in the form of a surety bond, cash deposit or other approved collateral. NAC 538.744 requires the Commission to conduct an annual review of the creditworthiness of its retail industrial customers during October of each operating year. Based on that review, the Commission establishes the amount and prescribes the manner in which the customer is required to furnish collateral pursuant to its contracts with the Commission.

NAC 538.744 provides that "[i]n no case will the amount of collateral established by the Commission be less than one-fourth of the contractor's gross annual purchases" and, where necessary to protect the State from potential loss, the amount of the required collateral may be greater than this minimum. "Gross annual purchases" is defined in the regulation as "the total amount of a contractor's actual purchases of power, transmission and other related services, if any, under all its contracts with the commission, invoiced by the commission during the test period," that is, "the 12 consecutive months immediately preceding the month containing the date of review." Given the present date of review as October 1, 2008, the test period runs from October 1, 2007, through September 30, 2008.

Staff continuously monitors the stock value and credit rating of the Commission's contractors and reviews the financial press for information that may be of value in determining their credit risk. Based on its evaluation of this data, staff has concluded that the creditworthiness of these customers warrants a recommendation that the Commission adjust the respective amounts of the contractors' required collateral to the minimum allowable by NAC 538.744.

To determine the allowable minimum collateral required of each industrial customer for Operating Year 2008, staff calculated 25 percent of that customer's Gross Annual Purchases

during the test period, October 1, 2007, through September 30, 2008. The results are as follows:

Contractor	Gross Annual Purchases* 10/1/07 through 9/30/08	Proposed Collateral 25% of previous column	Present Collateral	Increase or Decrease of Present Collateral
American Pacific Corporation	\$4,340,896.72	\$1,085,224.18	\$1,163,267.02	(\$78,042.84)
Basic Water Company	\$1,348,264.70	\$337,066.18	\$183,942.29	\$153,123.89
Chemical Lime Company of Arizona	\$84,743.65	\$21,185.91	\$21,983.90	(\$797.99)
Tronox, LLC	\$1,727,367.60	\$431,841.90	\$415,166.60	\$16,675.30
Olin Chlor Alkaline Products	\$18,807,471.06	\$4,701,867.77	\$4,328,111.90	\$373,755.87
Titanium Metals Corporation	\$15,783,853.19	\$3,945,963.30	\$2,685,983.61	\$1,259,979.69
Total	\$42,092,596.92	\$10,523,149.24	\$8,798,455.32	\$1,724,693.92

*The "Gross Annual Purchase" is based on the total Monthly Invoices plus the total Parker-Davis Advance Fund Invoices and then adjusting for the following charges or credits: 1) Reversed credits to Olin of approximately \$144,040 for Interest credited to Olin on their monthly invoice. Interest accrued due to requirement of first \$3,000,000 of Olin's Collateral be cash.

Under NAC 538.744, the Commission may prescribe the manner in which a contractor is required to furnish collateral pursuant to its contracts with the Commission. Staff recommended that the Commission allow contractors with cash posted as collateral to furnish the additional required collateral in six monthly installments.

Chairman Bingham asked if there were any questions or comments from the public or Commission members. There were none.

Commissioner Batjer moved to accept staff's recommendation. The motion was seconded by Commissioner Tarkanian and approved by a unanimous vote.

E. Status update on the hydrologic conditions, drought, and climate of the Colorado River Basin and Nevada's consumptive use of Colorado River water.

Nicole Everett, Natural Resource Analyst for the Commission, addressed a question that was raised at the October Commission meeting regarding the span of years that a "period of record" covers. Ms. Everett prepared a slide showing that periods of records differ by reporting entity. The investigation showed that periods of records can vary from 30 years to 100 years. She assured the Commission that she will include the pertinent span of years in future data reporting.

Commissioner Tarkanian commended Mrs. Everett for her effort in clarifying this issue for the Commission.

Nicole Everett and Esther Valle, the Commission's Natural Resource Analysts, provided reports on the following:

- Unregulated inflow into Lake Powell
- Storage conditions on the Colorado River

- Precipitation in the Colorado River Basin
- Lake Powell elevation projections
- Drought conditions in the West
- Seasonal drought outlook
- Monthly temperature deviations
- 12 month temperature departure from average/3 month temperature outlook
- Monthly precipitation—October 2007 through October 2008
- Precipitation through October for Clark County
- Water use in southern Nevada

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

Mr. Caan said since water use in Nevada is down from last year, that has allowed Nevada to help its neighbor to the West. California is in a severe drought and southern California will only receive 15% from the State Water Resources Project. Nevada has been banking water in California's aqueduct. This stores water that is not being used at present and saves it for future use. It also helps California maintain a level in its aqueduct to deal with the drought.

Commissioner Tarkanian asked what happens if California uses the water that was banked.

Mr. Caan said that the water is Nevada's and will be withdrawn at Lake Mead—not the aqueduct. This is similar to an arrangement with Arizona—water is banked in Arizona but withdrawn from Lake Mead.

Jennifer Crandell, Senior Deputy Attorney General, provided an update on a lawsuit the Commission intervened in which was filed by Grand Canyon Trust on the operations of Glen Canyon Dam. This was a significant case as it would impact water use, dam operations, and the hydropower supply. The biggest concern in this case arises from the plaintiffs' claims against the Annual Operating Plan (AOP) and how the U.S. Bureau of Reclamation has implemented the AOP. The plaintiffs assert that an environmental compliance process (National Environmental Policy Act (NEPA) and Endangered Species Act review) should have been conducted annually. Nevada maintains that the AOP is not a decisional document—it is a report on what has happened in the past and a projection for the future. Ms. Crandell reported she was asked to represent the seven Colorado River Basin states in the oral arguments that took place in August. A decision was issued granting summary judgment on claims four and five which dealt with the AOP. Plaintiffs filed a motion for consideration which was denied on November 11, 2008. That matter will probably be appealed.

Briefs are due through January on the remaining claims. Those claims relate to the previous environmental compliance and NEPA review—completed in 1995 and in 2008 on the high-test and low-steady flows. Another oral argument is anticipated in February or March 2009 with, perhaps, a decision in April 2009.

Ms. Crandell reported that she and Natural Resources Group Manager McClain Peterson attended a ribbon cutting ceremony in California for the Drop 2 Storage Reservoir Project. It is anticipated that use of the reservoir could provide up to 70,000 acre-feet per year through conservation. Nevada would be entitled to 40,000 acre-feet per year of conserved water for up to a total of 400,000 acre feet.

Ms. Crandell reminded the Commission that in 2006, it approved filing an amicus brief in a New York case involving water transfers, i.e. how water is moved within a state when no pollutants are added. This case, as well as other cases involving similar issues, have been before the Supreme Court. The Environmental Protection Agency issued a rule that inter-basin transfers is a states' rights issue. The ruling found that an engineered transfer that does not add a pollutant does not require a discharge permit under the Clean Water Act.

Attorney General Masto has asked Ms. Crandell to intervene in this case on behalf of the State of Nevada. The case will be consolidated in the U.S. Court of Appeals for the Eleventh Judicial Circuit with cases from two other circuits. A number of western states have lined up as joint interveners in support of this case—Nevada, New Mexico, Colorado, Idaho, Utah, South Dakota, Oklahoma, Alaska, and Montana. The case is important to western states since it is essential to be able to move water within the states.

Commissioner Batjer asked how strictly pollutants are defined and whether that will be a problem in the case.

Ms. Crandell said that the case involves transfers from one body of water to another. No pollutants would be added since no use of the water would take place during the transfer.

Ms. Crandell said this case may become moot if environmental groups are successful in their goal of re-writing the Clean Water Act.

F. 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 Bingham asked if there were any comments or questions from the public. There were none.

G. Comments and questions from the Commission members.

Chairman Bingham asked if there were any comments or questions from the Commission members. There were none.

H. Selection of the next possible meeting date.

The next meeting was tentatively scheduled for 10:00 a.m. on December 9, 2008, at the Grant Sawyer Building, Room 4412.

I. Adjournment.

The meeting adjourned at 10:36 a.m.

George M. Caan, Executive Director

APPROVED:

Jay D. Bingham, Chairman