

The meeting was held at 1:30 p.m. on Tuesday, January 10, 2017, at the Clark County Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Chairwoman	Puoy K. Premsrirut
Commissioner	Marilyn Kirkpatrick
Commissioner	Duncan R. McCoy
Commissioner	Steve Sisolak
Commissioner	Dan H. Stewart
Commissioner	Cody T. Winterton

COMMISSIONER PARTICIPATING VIA TELECONFERENCE

Vice Chairwoman	Kara J. Kelley
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DEPUTY ATTORNEY GENERAL

Special Counsel, Attorney General	Christine Guerci-Nyhus
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COMMISSION STAFF IN ATTENDANCE

Executive Director	Jayne Harkins, P.E.
Chief of Finance and Administration	Douglas N. Beatty
Assistant Director of Energy Services	Gail A. Bates
Assistant Director of Engineering and Operations	Robert D. Reese
Hydropower Program Manager	Craig N. Pyper
Natural Resource Analyst	Peggy Roefer
Natural Resource Analyst	Warren Turkett, Ph.D.
Senior Accountant	Gail L. Benton
Office Manager	Judy K. Atwood
Administrative Assistant IV	Gina Goodman
Administrative Assistant III	Kristina Perry
Administrative Assistant II	Alison M. Otero

OTHERS PRESENT; REPRESENTING

Consultant, Colorado River Commission	Sara A. Price, Esq.
Southern Nevada Water Authority	Jordan Bunker
Southern Nevada Water Authority	Scott Krantz
Tronox, LLC	John Holmstrom

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF JANUARY 10, 2017**

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The Colorado River Commission meeting was called to order by Chairwoman Premsrirut at 1:00 p.m. followed by the Pledge of Allegiance.

A. Conformance to Open Meeting Law.

Executive Director Jayne Harkins, P.E., confirmed that the meeting was in compliance with the Open Meeting Law. Commissioner Kelley was present via teleconference.

B. Comments 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.)

Chairwoman Premsrirut asked if there were any comments from the public. There were none. The Chairwoman welcomed new Commissioner Dan H. Stewart to the Commission, and noted his extensive experience in both the private and public sector.

C. For Possible Action: Approval of minutes of the November 8, 2016 meeting.

Commissioner Sisolak moved for approval of the minutes. The motion was seconded by Commissioner Winterton, and approved by a unanimous vote of the remaining Commissioners. Commissioner Stewart abstained from voting.

D. For Possible Action: Selection of Vice Chairman.

NRS 538.11 provides that “at the first meeting of the Commission in each calendar year, the Commission shall elect the Vice Chair for the ensuing calendar year”.

Commissioner Winterton made a motion to appoint Commissioner Kelley to Vice Chairwoman. The motion was seconded by Commissioner Kirkpatrick and approved by a unanimous vote.

E. For Possible Action: Consideration of and possible action to approve the Notice and Invitation to Apply for the Reallocation of Hydropower Resources, including the Criteria, as well as to approve the Application for the Reallocation of Power for limited hydropower resources available from the Boulder Canyon Project and the Salt Lake City Area Integrated Projects.

Ms. Harkins explained that earlier this year, the American Pacific Corporation (AMPAC) declined the Colorado River Commission of Nevada’s (Commission’s) offer for a 50-year contract for Hoover power. AMPAC also requested the Commission lay-off their power and transmission from the Salt Lake City Area Integrated Project (SLCAIP) (Glen Canyon Dam), and their transmission from the Parker-Davis project as well as permanently reallocate these resources. In response to AMPAC’s request, the Commission laid off the energy and transmission from AMPAC’s Hoover and SLCAIP contracts through September 30, 2017 and

initiated a public process, as outlined in NAC 538.455 to reallocate these resources effective October 1, 2017. The process provided for in NAC 538.455 is as follows:

November 1, 2016	Draft Notice and Draft Application Form available for Comment
November 10, 2016	Public Information Meeting
November 17, 2016	Comments on Draft Notice and Draft Application Form Due
January 10, 2017	Commission Review and Approve Notice, Criteria and Application Form
January 11, 2017	Commission Issues Approved Notice and Application Form
February 13, 2017	Applications Due
March 2, 2017	Draft Order with Staff Recommendations for Public Review
April 11, 2017	Draft Order Presented for Commission approval

It should be noted that NRS 704.787 limits the customers the Commission can contract with for federal hydropower. Eligible entities for AMPAC's Hoover, SLCAIP and Parker-Davis Project resources are limited to the Commission customers as defined in 704.787 (a) and (b); a Customer Schematic is provided in the Commissioner meeting materials.

On November 1, 2016, Staff issued a draft notice, including the criteria that the Commission will consider in reallocating the resources, and the application to be filled out by those applying for the reallocated resources. A public information meeting was held on November 10, 2016 to review the draft notice and application with comments due on November 17, 2016. Staff received comments from four of its customers, including NV Energy, Valley Electric Association, Titanium Metals Corporation, and Lincoln County Power District No. 1. Staff reviewed and considered the comments offered by its customers and has provided written responses to their questions. Upon Commission approval of the attached Notice and Invitation to Apply for the Reallocation of Hydropower Resources, Staff will issue the documents and call for applications to be submitted. Once the applications are received, they will be considered public record and will be available for review in accordance with Nevada public records law. It should be noted the Commission has revised its position on the submittal of confidential or commercially sensitive information from what has been done in past allocation.

Chairwoman Premsrirut asked how the application and content form differs from the prior application and forms that were completed.

Ms. Harkins stated that the application form is briefer since there will be no new eligible customers. If the applicant is the Southern Nevada Water Authority (SNWA) or one of its member agencies there is a requirement under NRS 704.787 that it be allocated for water and wastewater operations. The applicant data requested in the application compares and contrasts usage from other resources available. The form is similar in the credit worthiness statement and in the applicant's statement of benefit to the State.

Chairwoman Premsrirut asked if the Commission staff will be looking at the applications as fresh and new, or other aspects of prior applications or other information on file since there will not be new customers eligible.

Ms. Harkins stated that for all applications, the Staff will be looking at what is included in the application.

Chairwoman Premsrirut asked if the Commission staff will be articulating in the response to question number three including the greatest benefit to the State, and that it would be one of the criteria in deciding the reallocation using the same prioritized criteria that was used previously, in terms of the economic revitalization and the other things that are on the record.

Ms. Harkins stated No. The eight criteria listed in the Notice are different than the criteria in the Hoover Allocation process completed in September 2015. The Commission staff has taken a different approach regarding the criteria in this allocation process.

Chairwoman Premsrirut asked since the Commission changed the confidentiality policy, have there been any major customer objections.

Ms. Harkins answered she had not heard of any objections.

Christine Guerci-Nyhus, Special Counsel, Attorney General, stated that the Commission had not heard any comments from the customers. The Commission did send this notice out early so individuals could contact her. No one has contacted her.

Chairwoman Premsrirut clarified she was referring to the previous confidentiality policy that allowed customers to stamp certain items within their application as confidential. The Commission now deemed all portions of the application as public record.

Commissioner Winterton asked to be reminded if during the last process if the Commission had the same confidentiality policy.

Ms. Harkins stated that in the current draft of the application form, in blue ink is a notification that information provided will be considered public record. In prior applications, the notation stated that applicants could mark items as confidential. Based on discussions with the Commission last year, Staff heard material in an application process was to be considered public record. The Commission staff wanted to make sure that it was very clear in this application that anything submitted would be public record.

Commissioner Winterton made a motion to approve the Notice and Invitation to Apply for the Reallocation of Hydropower Resources, including the Criteria, as well as to approve the Application for the Reallocation of Power for limited hydropower resources available from the Boulder Canyon Project and the Salt Lake City Area Integrated Projects. The motion was seconded by Commissioner McCoy and approved by a unanimous vote.

F. *For Possible Action:* Consideration of and possible action to approve and authorize the Executive Director to execute the following agreements, in materially the same form: (1) Memorandum of Agreement on the Implementation of Minute No. 32X; (2) Interim Operating Agreement for Implementation of Minute No. 32X; (3) 2017 Lower Colorado River Basin Forbearance Agreement for Binational Intentionally Created Surplus; and (4) 2017 Contributed Funds Agreement.

Agenda Item F was withdrawn and will be placed on a future meeting agenda.

G. *For Possible Action:* Consideration of and possible action regarding Assembly Bill 11 (AB 11) which amends NRS 493.020 to expand the definition of “Critical Facility” to include transmission lines owned, operated, maintained or repaired by the Commission, to protect them from unmanned aerial vehicles.

Ms. Harkins stated that the Governor’s Office included this proposed legislation for the Commission as Executive Branch Bill Draft Request 44-137 (BDR 44-137). BDR 44-137 was pre-filed and introduced as Assembly Bill 11 (AB11) on November 15, 2016 and was referred to the Assembly Committee on Transportation.

AB11 is an amendment to NRS 493.020 which would expand the definition of “Critical Facility” to include transmission lines owned, operated, maintained or repaired by the Commission.

The statute currently covers transmission lines owned by an electric utility, but not the lines utilized by the Commission.

Currently NRS 493.109 prohibits a person from operating an unmanned aerial vehicle within a horizontal distance of 500 feet or a vertical distance of 250 feet of a “critical facility” without the written consent of the owner. A person who violates NRS 493.109 is guilty of a misdemeanor.

The Commission owns, operates, maintains and repairs electric transmission lines which carry energy produced at Hoover Dam and other federal facilities to numerous customers in and around Boulder City, Henderson and Las Vegas.

The Commission maintains and repairs substations and transmission lines for entities such as the SNWA, Las Vegas Valley Water District, and the Clark County Water Reclamation District, whose water and wastewater treatment facilities are encompassed in the current definition of “Critical Facility.” The proposed amendment would extend coverage to include the transmission lines providing power to those facilities.

The Commission is asking for these transmission lines to be included in the definition of “Critical Facility” so that unmanned aerial vehicles may not be operated within the statutory boundaries of these transmission lines without permission.

Ms. Harkins stated there have been questions about drone usage in the El Dorado Valley and Nevada State College area. Drone usage in both areas are close, but still some distance away.

Commissioner McCoy asked if there was a possibility with the solar companies using infrared camera equipped drones for maintenance use, or other businesses needing to use drones for maintenance use, be considered for approval by the Commission.

Ms. Harkins replied yes. If in the area and consistently doing something from a maintenance sense, the Commission staff could work with other entities and provide appropriate approvals after reviewing the scope and location of the maintenance work.

Chairwoman Prensirut stated that the draft does state the drones could be used if they “have the consent of the owner of the critical facility’s approval”. Are there other friendly amendments from constituents to add their facilities to the AB11?

Ms. Harkins answered yes, she is aware of an amendment the SNWA is working on. Staff would not oppose it.

Chairwoman Prensirut asked Ms. Guerci-Nyhus, if the Commission could propose an amendment to the Agenda Item, to approve as is with the exception of any friendly amendments that SNWA may have with respect to additional facilities that they wanted to include.

Ms. Guerci-Nyhus stated the amendment could be done in a broad sense since the Agenda does state the consideration and possible action on the item. The best motion would be to give authority to the Executive Director to determine if the amendment was to be approved. With your guidance, Ms. Harkins would be approving anything with reservoirs or critical infrastructure, but this way there would be a check and balance process as to what that amendment was. Ms. Guerci-Nyhus suggested a motion could be to approve AB11, and delegate to the Executive Directive the authority to approve friendly amendments by the SNWA.

Commissioner Sisolak asked if the Commission is being asked to support a bill draft when the final draft is not known. He cannot support that because of a concern that there could be other amendments filed to the bill draft by other people; and he does not know how the bill will end up.

Chairwoman Prensirut stated that the intention is that the intended language be proposed for submittal, and the Commission is aware that SNWA wants to add water reservoirs or a couple items under critical facility. Chairwoman Prensirut stated the intention was to try and prevent another agenda item for the same topic if the Commission is supportive.

Ms. Harkins stated she needed the Commission’s guidance. If she need to come back monthly to the Commission, that may not meet the Legislative timeframes. Ms. Harkins does not think there would be any problems with SNWA’s amendment to including reservoirs as a critical facility.

Ms. Harkins stated what she was asking for was the Commission’s support to move forward in the Legislature with what the Commission is proposing with AB11 and to move it forward. There may be other amendments that Ms. Harkins would oppose, and it can be brought monthly to the Commission and get approval for every change proposed to this bill.

Chairwoman Premsrirut stated she understands Commissioner Sisolak's comments, and she appreciates them. The intention is not to give Ms. Harkins carte blanche to trudge forward with a bill.

Vice Chairwoman Kelley expressed that she thinks what is important for the Commission is, due to the deadlines of the Legislature, to be able to give the Executive Director some flexibility on the legislative process, legislative language, and how that proceeds, while in consultation with the Chairman. If it changes materially, then it needs to come back to the Commission but otherwise it is not practical to not have that flexibility granted.

Commissioner Kirkpatrick stated there was a similar bill last Legislative Session, with aerial, manned aerial vehicles, and there is a lot of concern today. Commissioner Kirkpatrick stated as long as the Commission allows for any amendments with infrastructure relating to Homeland Security, there is flexibility. If the Commission gives Ms. Harkins the ability to say anything that is within the purview of critical infrastructure as the Homeland Security would see it, it gives a broad range to do it, and it is flexible. What the Commission does not want is to have the one line bill, turn into this big bill that can no longer be controlled. If one goes with Homeland Security, Commissioner Kirkpatrick thinks there is a definition in the statute, which refers to critical infrastructure. This might give leeway to not be the party of no, but to have some parameters to keep it simple.

Chairwoman Premsrirut thanked fellow Commissioners, stating their legislative expertise really helps the Commission as a board understand the process, and how a very simple piece of legislation can get twisted to resemble something not started with. Chairwoman Premsrirut appreciates Commissioner Kirkpatrick's parameters with Homeland Security, and would welcome a motion either as is, or to incorporate the Homeland Security parameters.

Commissioner Kirkpatrick made a motion to allow Ms. Harkins to go forward with AB11, and to have input on any amendments that may involve Homeland Security Critical Infrastructure. The motion was seconded by Commissioner Stewart and approved by a unanimous vote.

H. *For Information Only:* Presentation to the Commission on future changes to hydropower billing procedures.

The post-2017 Hoover Contract requires that we give our customers 20 calendar days to pay for monthly invoices issued under the Contract by the Commission staff. Further, the Commission's regulations require a 15 day cure period followed by 3 days' written notice prior to suspension of hydropower service to the customer. Per the terms of the Hoover Contract:

“If the Commission determines that it will need working capital to implement the terms of this Contract, or require pre-payment for all or a portion of the amounts owed under this Contract, as authorized under NAC 538.744, Staff will present periodically a CRC Working Capital and/or prepayment proposal to the Commission for action at a Commission meeting.”

The Commission's current hydropower billing procedures must be changed to implement the terms of the post-2017 Hoover Contract. In February, the Staff will present to the Commission a working capital and/or pre-payment plan for approval.

Craig Pyper, Hydropower Program Manager, presented an informational only presentation; the formal proposal would be presented at the next Commission meeting. A copy of the presentation is attached and made part of the minutes. (See Attachment A)

Commissioner Winterton referenced the first slide and inquired if customers pay late, the Commission pays late; what is the exposure, is there a late fee, and what happens if the Commission is late?

Mr. Pyper stated it depends on the vendor. With Western Area Power Administration (WAPA) there is an automatic late fee that the Commission would have to pay, there is also an exposure with late-payment penalties. WAPA has been very lenient. The Commission has been lucky thus far as to not incur late payments.

Douglas Beatty, Chief of Finance and Administration, stated that it has been years since the Commission has had a late payment and had to pay penalties, around 10 years or so. If a customer is late in terms of their payment, the Commission staff still queues the payment up in order to get the Commission's payment out on time.

Chairwoman Premsrirut asked with the concern being once the Hoover contracts begin this October, does the Commission anticipate additional late payments, or if it occurs that it will be more critical than it is now? How serious is this proposed delinquency?

Ms. Harkins stated that the delinquency is not serious. The Commission process in the current contracts provides customers with 15 days to pay. When the Commission met with the new customers, particularly some of the cities, Staff was advised payments could not be made within the current 15-day window. In the Commission's contracts starting October 1, 2017, there is a 20-day payment. Because it takes several days to queue the money up to wire it out on the 20th of the month, the Commission cannot have it coming in on the 20th, and get it out on the 20th of the month. The 20-day vendor payment stays the same. The Commission staff is reviewing options for a billing system that is the same for everyone, and can accommodate the 20 days to pay.

Commissioner Kirkpatrick stated that it was interesting that the Commission is trying to get everyone to pay on the same day. Typically businesses want that cash flow. It seems as the Commission would want the bigger contract payments to come in first, then the smaller contract payments come in as they come. Businesses in Clark County rely on the smaller companies to keep the cash flow moving after the bigger dollars come in.

Mr. Pyper stated as it currently stands, the Commission does not have any cash flow; and all of the contracts begin on the same day, October 1, 2017. The Commission does not have the personnel to be sending out bills on different days. There are certain set times for the invoices, for scheduling and for true-up reports. All of the bills come due, and all of the payments are due on the same day.

Commissioner Kirkpatrick asked how many customers total does the Commission have? If it has never been a problem, and the contracts are coming up, and the Commission has been doing this for a very long time, why does the Commission want to change the process if it is not broke.

Mr. Pyper stated not only the Schedule D customer's requested the change, also some of the current customers requested in the new contract there be more than 15 days to pay. The Commission has 12 current customers now, who have been paying this way for several years. The Commission can process all of these customers in the same timeframe with the existing billing systems, and are trying to automate those. Due to the 20-day customer request, the Commission is going to have make changes perhaps when invoices are billed.

Commissioner Kirkpatrick asked if a good portion of our clients are government based.

Mr. Pyper stated currently two customers are retail water pumping, five are industries, and five are government.

Mr. Beatty clarified that under the State system, checks are not issued anymore; all the payments go out under Automated Clearing House, ACH. The State Treasury has to have the money in the bank and recognized as cash. If the Commission gets a check from one of the customer's today, and the check is deposited today, the State Treasurer will not recognize that as cash until the check clears. Once the check clears, then the State Treasurer will release the funds in the system and the Commission has the ability to get to those funds. The Commission queues up the payment and it takes four days before the payment goes out. The Commission goes on the system and queues it up; and as long as the State Treasurer has released the cash, the system will recognize whether the Commission has the funds or not. If the Commission queues up a payment and the customer's check has not cleared, the system will reject it, since funds are not in the bank. Once the funds are recognized, the Commission queues it up and it will be released in four days. The Commission has no control over how long it takes the Treasurer's ACH system from queue up to actual transfer into the payee's account.

Commissioner Sisolak asked if the Commission can amend the new contract and make a 15-day payment like it was before.

Ms. Harkins stated yes that the Commission can propose a contract amendment to the customers for a 15-day payment; and then can see what customers cannot make their payments. The Commission staff has been told by customers they cannot make payments in 15 days, and may come into a problem where the customer's will not be able to make payments. The Commission has been told the City of Henderson cannot make payments in 15 days. Ms. Harkins does not remember which other customers and can provide a list at a later time if the Commission wishes. Staff can go back and can talk to the customers about that option.

Chairwoman Premsrirut asked as it stands, no customers have objected to posting the working capital already having to post collateral. If the Commission wants the 20th date, then they need to front load the contract and put up money to cover the event of default. If they cannot do that, then they need to stipulate to a 15th reversion.

Chairwoman Premsrirut stated that the more information provided by Staff the better, everyone is here for collective input, and Staff efforts are appreciated.

I. *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.*

Warren Turkett, Ph.D., Natural Resource Analyst, provided a report on the following:

- Unregulated Inflow & Storage as of January 9, 2017
- Lake Powell Projections based on December 2016 24-Month Study
- Lake Mead Projections based on December 2016 24-Month Study
- Precipitation – Monthly for December, Seasonal October 2016 - December 2016
- Colorado Basin River Forecast Center
- Water Use in Southern Nevada as of January – November 2016
- Hydropower Capacity

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

Dr. Turkett said in 2018 there could be shortages; a decision would be made in August 2017. The SNWA decided to leave unused water in the lake, which will benefit Lake Mead by approximately 10 inches.

Commissioner Sisolak asked why 30-year averages that are seven years old are still being used.

Dr. Turkett stated that climatology utilizes the 30-year model and it makes it easier to look back. The Commission can look at shorter time periods, but climatologists prefer the longer time range, showing some of the adjustments that occur through the seasons. In the year 2020 the 30-year average will be updated and the last 10 years will drop off; and then these past 10 years will be picked up. The new 30-year model will then be the new normal.

Dr. Turkett stated that it depends on the comparison and data source used. Staff uses National Oceanic and Atmospheric Administration data, for the unregulated inflow, and for a lot of the weather it uses a 30-year average.

Commissioner Stewart said he understood the 30-year, but why not a rolling average updated every year, drop off the last year, the 30th year, and put on the 31st year?

Dr. Turkett stated that there is a lot of variation from year to year, so climatologists like to keep it to a model every 10 years. One thing with changing it from year-to-year, from their perspective, is it changes the ruler that you are measuring the past years. That makes sure there's an accurate comparison from this year and last year versus the previous year. That is one of the reasons they prefer to have that consistent for 10 years, and then they change it at that point. It does depend on what is being looked at; sometimes Dr. Turkett does his own averages, so depending on what is being looked at, he tries to accommodate.

J. Comments 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.)

Chairwoman Premsrirut asked if there were any comments from the public. There were none.

K. Comments and questions from the Commission members.

Commissioner Stewart thanked everyone for the warm welcome, and looks forward to working with everyone, and hopes he can be of some value to the Commission based on his background.

Commissioner Kirkpatrick stated that now the Commission knows what the Legislative priorities are, asked if the budget hearing date is known.

Mr. Beatty stated the date has not been scheduled and since the Commission budget did not change much, the hearing will likely be towards the latter end of the budget hearings.

Ms. Harkins stated that Staff are monitoring a number of bills that might have impact to the Commission. What was discussed today is what the Commission is proposing.

L. Selection of the next possible meeting date.

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, February 14, 2017, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

M. Adjournment.

The meeting adjourned at 2:32 p.m.

Jayne Harkins, P.E., Executive Director

APPROVED:

Puoy K. Premsrirut, Chairwoman