

The meeting was held at 1:00 p.m. on Tuesday, November 10, 2015, at the Clark County Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Chairman	George F. Ogilvie III
Vice Chairwoman	Puoy K. Premsrirut
Commissioner	Sam Bateman
Commissioner	Kara J. Kelley
Commissioner	Duncan R. McCoy
Commissioner	Steve Sisolak
Commissioner	Cody Winterton

DEPUTY ATTORNEYS GENERAL

Special Counsel, Attorney General	Jennifer T. Crandell
Special Counsel, Attorney General	Ann C. Pongracz

COMMISSION STAFF IN ATTENDANCE

Executive Director	Jayne Harkins, P.E.
Assistant Director of Engineering and Operations	Robert D. Reese
Hydropower Program Manager	Craig N. Pyper
Natural Resource Analyst	Warren Turkett
Senior Accountant	Gail L. Benton
Senior Energy Accountant	Richard M. Sanders
Office Manager	Judy K. Atwood
Administrative Assistant III	Carol L. Perone
Administrative Assistant II	Angela Sarno

OTHERS PRESENT; REPRESENTING

Aha Macav Power Service	Jeronimo McKenzie
Consultant	Sara A. Price, Esq.
Southern Nevada Water Authority	Colby Pellegrino

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF NOVEMBER 10, 2015**

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The Colorado River Commission meeting was called to order by Chairman Ogilvie at 1:00 p.m. followed by the pledge of allegiance.

A. Conformance to Open Meeting Law.

Executive Director Jayne Harkins confirmed that the meeting was in compliance with the Open Meeting Law.

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.)

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

C. For Possible Action: Approval of minutes of the September 8, and October 13, 2015 meetings.

Commissioner McCoy moved for approval of the minutes. The motion was seconded by Vice Chairwoman Premsrirut and approved by a unanimous vote from all commissioners present. Commissioner Kelley not present for the vote.

D. For Possible Action: Consideration of and possible action to set the amount of collateral the Colorado River Commission of Nevada's (Commission's) retail industrial customers are required to post for calendar year 2016 pursuant to their contracts with the Commission.

Craig Pyper, Hydropower Program Manager, provided background for the Commission's consideration for setting the amount of required collateral required from each of the Commission's retail industrial customers.

NRS 538.181(2) requires that the Commission's power customers 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. Pursuant to NAC 538.744, federal and state agencies, political subdivisions, and Nevada Power Company and other customers in the business of buying and selling electric power, are exempt from providing collateral.

Every contract by which the Commission sells power to the retail customers who are subject to the requirements of NRS 538.181(2) contains provisions for collateral in the form of a letter of credit, 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, provides further that the amount of the required collateral may be greater than this minimum where necessary to protect the State from potential loss. “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, 2015, the test period runs from October 1, 2014, through September 30, 2015.

Staff continuously monitors the payment history, stock value and credit rating of the affected customers and reviews the financial press for information that may be of value in determining their credit risk. Staff also reviews past loads and purchases and considers estimated future requirements based on customers’ estimated loads. Based on its evaluation of this data, Staff has concluded that the creditworthiness of these customers warrants a recommendation that the Commission adjust and set the respective amounts of their required collateral to the minimum allowable by NAC 538.744 as reflected below.

To determine the collateral required of each industrial customer for Calendar Year 2016, Staff calculated 25 percent of that customer’s Adjusted Gross Annual Purchases during the test period, October 1, 2014, through September 30, 2015 reflecting actual purchases during the test period with adjustments for those customers who estimate significantly higher load for the Calendar Year.

The results are as follows:

	Adjusted Gross	Proposed Collateral	Present	Increase or Decrease
Customer	Annual Purchases*	25%	Collateral	Of Present Collateral
	10/1/14 through 9/30/15	of previous column		
American Pacific Corporation^{2,3}	\$3,088,679.86	\$772,169.97	\$815,288.51	(\$43,118.54)
Basic Water Company^{1,2,3}	\$947,776.38	\$236,944.10	\$237,114.70	(\$170.60)
Lhoist North America, Inc.^{2,3}	\$69,221.26	\$17,305.32	\$14,809.83	\$2,495.49
Tronox, LLC^{2,3}	\$2,202,060.73	\$550,515.18	\$450,793.03	\$99,722.15
Olin Chlor Alkaline Products^{1,2,3}	\$9,043,726.41	\$2,260,931.60	\$2,968,250.63	(\$707,319.03)
Titanium Metals Corporation^{2,3}	\$11,365,273.72	\$2,841,318.43	\$3,062,094.16	(\$220,775.73)
Total	\$26,716,738.36	\$6,679,184.60	\$7,548,350.86	(\$869,166.26)

*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:

- 1) Cash collateral adjustments and interest credits added back in.
- 2) Administration charge credits added back in.
- 3) Adjusted for prior years reconciliations.

Commissioner Bateman moved for approval of the Staff's recommendation with respect to set the amounts of collateral required for the Commission's retail industrial customers. The motion was seconded by Commissioner McCoy and approved by a unanimous vote of those present. Commissioner Kelley was not present for the vote.

E. For Information Only: Status update on the Colorado River System Conservation Pilot Program.
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Sara A. Price Esq., Consultant to the Commission, provided a status report on the on the Colorado River System Conservation Pilot Program including the following:

- Program incentives
- Precedent
- Initiation of the Pilot Program
- Purpose
- System Conservation
- Funding
- Administration of the Program
- Solicitation of the Program
- Selection Process

- Lower Basin Projects
- Pending Lower Basin Projects
- Upper Basin Projects
- Conclusion

A copy of Ms. Price's presentation is attached and made part of these minutes.
(Attachment A)

On July 30, 2014, the Bureau of Reclamation (Reclamation), along with four of the major municipal water districts in the Colorado River Basin (the Southern Nevada Water Authority (SNWA), the Central Arizona Water Conservation District (CAWCD), the Metropolitan Water District of Southern California (MWD), and Denver Water)(collectively "Parties") executed an Agreement for a Pilot Program for Funding the Creation of Colorado River System Water Through Voluntary Water Conservation and Reductions in Use. This Agreement set up a two-year pilot program to determine whether, through the Parties' funding efforts, voluntary, feasible and cost-effective opportunities existed to mitigate against the declining lake levels in Powell and Mead due to the extenuating drought on the River. The Parties created a pool of \$11 million in funding, \$2 million from each municipal agency and \$3 million from Reclamation. Of the \$11 million, \$2.75 million is set aside for expenditure on projects in the Upper Basin. The remaining amount is directed at projects in the Lower Basin.

To date, three Pilot Programs have been executed in the Lower Basin, with an estimated 30,000 acre-feet of water savings for Lake Mead. Two additional projects are pending execution in the Lower Basin, which will add another 8,000 acre-feet in estimated water savings. The Upper Basin has contracts for approximately 3,000 acre-feet of estimated water savings. So far approximately \$8 million has been committed to fund these projects.

At the end of the Program, the Parties will evaluate the effectiveness of the Program and consult with the seven Colorado River Basin States and other interested parties to determine if the Program should be extended or adapted into a long-term solution. Reclamation has also been working with the International Boundary and Water Commission to educate Mexico on the Pilot Program and to potentially discuss whether Mexico might be able to participate in the Program.

Commissioner Sisolak asked how the savings is quantified on the program.

Ms. Price replied that the Implementation Agreement will have mechanisms on the accounting of the water savings.

Commissioner Sisolak asked how much will be paid per foot on the turf remediation.

Ms. Price responded an Implementation Agreement has not yet been executed, and she was not sure what the particular dollar amount would be.

Commissioner Sisolak expressed concern about SNWA paying \$2.00; someone else would be getting \$3.00 which is unfair.

Ms. Price advised that SNWA is one of the parties in the Agreement and clarified that it is a pending project. More information could be obtained and forwarded to the Commission once the Implementation Agreement is executed.

Chairman Ogilvie asked what SNWA will get in return regarding the dedication of the 15,000 acre feet of Muddy and Virgin water. It seems the proposal would not cost any money; How do you value the ICS credits? Is the SNWA simply donating the water to the System?

Ms. Price said yes regarding SNWA donating the water to the System.

Ms. Harkins commented that SNWA paid for leases on the Virgin and Muddy water and are getting money back for those leases from the program.

Chairman Ogilvie asked what will the Tohono O'odham Nation get in return for the 10,000 acre-feet of water they are forbearing.

Ms. Price replied that it is Staff's understanding that the Tohono O'odham Nation is receiving program dollars as an incentive to reduce its water use.

Chairman Ogilvie inquired if some of the 8 of the 11 million dollars appropriated for the proposals had been used towards the forbearance.

Ms. Price said yes.

Chairman Ogilvie asked if there were details on how much was being paid per acre-foot for the Tribes' forbearance and that the Commission was trying to draw a correlation between what SNWA is receiving and the Tribe is receiving.

Ms. Price answered that Staff's understanding of the range in those contracts was anywhere from \$100 to \$200 per acre foot and that The Tohono O'odam Nation falls on the high end, the SNWA falls in the middle, and the third project falls on the lower end. This is a new program and the details are not yet completely clear. Cost effective proposals are being considered and there is the sensitivity on the dollar amounts. They are trying to protect the competitive process - understanding, that it is a public process but trying to find that tenuous balance of providing the information to the Commission.

Chairman Ogilvie commented it would be useful for our SNWA colleagues to have an understanding of the correlation between costs and the reasons behind the differences in the amounts paid for that water.

F. *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, Natural Resource Group Analyst, provided a report on the following

- Unregulated Inflow into Lake Powell as of November 6, 2015
- Storage Conditions as of November 9, 2015
- Reservoir Storage as of November 8, 2015
- Lake Powell Projections Reclamation's October 24-month Study
- Lake Mead Projections Reclamation's October 24-month Study
- U.S. West Drought Monitor West Released November 3, 2015
- U.S. Seasonal Drought Outlook Released October 15, 2015
- Colorado Basin Above Lake Powell 118 Sit Group
- Precipitation – Colorado River Basin as of November 9, 2015
- Monthly Precipitation for October 2015
- Monthly Precipitation at McCarran International Airport January-October 2015
- Cumulative Precipitation at McCarran International Airport January-October 2015
- Las Vegas Average Temperature
- El-Nino Inflow to Lake Powell
- Water Use in Southern Nevada as of January-September 2015

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

Commissioner Sisolak asked if it was Staff's opinion that El Nino is not going to have an effect, or is it somehow scientifically verified. All of the material published which he has seen is opposite of this information.

Mr. Turkett responded that the figure presented is the actual amount of run-off from 0-200% that has been seen over historic data that has been collected. All the red dates are El Nino years, the blue dates are La Nina years, and the dates that are in black are in-between years that had no effect either way.

Ms. Harkins clarified that the graph was showing there is no correlation for the Upper Basin. It can be an El Nino year and be very wet or very dry, it also can be a La Nina year and be very wet or very dry. Southern California and Arizona is affected differently. When there is an El Nino year, it is usually very wet and there is a more positive correlation for those parts of the basin. It's uncertain and there is not a guaranteed way to predict the effect an El Nino will have on snowpack in the Upper Basin.

Mr. Turkett pointed out that there is a trend line that is across middle, and that there is very little correlation in the Upper Basin area for snow pack and run off to Lake Powell, and that California could receive large amounts of rain and we could see improvements to the Lower Basin.

Chairman Ogilvie noted it could reduce the water demand in that example on the System.

Mr. Turkett agreed.

G. 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.)

Colby Pellegrino, Colorado River Program Manager from SNWA, addressed the Commission regarding Commissioner Sisolak's question. On the competitiveness of the City of Needles project compared to the SNWA turf removal project, she stated: It is significantly lower when you break it down to a dollar-per-acre-foot cost; it is about \$100 per acre-foot when you capitalize. The SNWA is paying, in the turf removal program, for a permanent reduction in water use. Whereas the agreement constructed with the City of Needles is a temporary reduction in water use. The City of Needles has agreed not to grow back into that unused water for a certain period of time, but not permanently. The MWD and Central Arizona Project have similar turf removal programs and they have concerns, as well, on their constituents paying a different price under system conservation. The City of Needles project will have significant water savings with an irrigation system upgrade and pump upgrade as well.

Commissioner Sisolak asked for clarification on whether the removal of turf is permanent or temporary.

Ms. Pellegrino clarified that it is a permanent removal of turf. SNWA's turf removal programs get water savings permanently. Whereas contractually, the conservation program is requiring the City of Needles to not increase their water use back into that portion of water saved for a specified period of time. The City of Needles' entitlement to Colorado River water is not changing but a portion of their entitlement will not be used for 10 years. When SNWA pays for turf removal, a deed restriction goes on the property. You can buy the deed restriction back, but you have to pay all the money back plus interest. This is different than with the Needles proposal. They take out the turf and they agree not to use the water for 10 years. After 10 years Needles can use the water. The City of Needles is the contractor, so like SNWA, they contract for all the growth in the City of Needles. SNWA takes out the turf and that allows for the use of water saved for other purposes. There is a near-term savings to the Colorado River System as a result.

Ms. Pellegrino explained that the way the agreement is structured with the City of Needles, is that for a flat proposed dollar amount Needles will do certain activities which include turf removal, upgrading of pumps and modifying irrigation system. Then as a result, Needles will not increase other water uses to take over that portion of savings for a period of time. Additional information will be made available at a later date.

H. Comments and questions from the Commission members.

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

I. Selection of the next possible meeting date.

The next meeting is tentatively scheduled for 1:00 p.m. on Tuesday, December 8, 2015, at the Clark County Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.

J. Adjournment.

The meeting adjourned at 1:42 p.m.

Jayne Harkins, P.E., Executive Director

APPROVED:

George F. Ogilvie III, Chairman