

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM A
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: Roll Call / Conformance to Open Meeting Law.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

Announcement of actions taken to conform to the Open Meeting Law will be reported at the meeting.

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM B
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: Comments from the public. Members of the public are invited to comment on items on the meeting agenda or on items not contained therein. No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM C
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: <i>For Possible Action:</i> Approval of minutes of the November 8, 2022, meeting.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

The minutes of the November 8, 2022, meeting are enclosed for your review.

The Colorado River Commission of Nevada (Commission) meeting was held at 1:30 p.m. on Tuesday, November 8, 2022, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, NV 89155.

COMMISSIONERS IN ATTENDANCE

Chairwoman	Puoy K. Premsrirut
Vice Chairwoman	Kara J. Kelley
Commissioner	Dan H. Stewart
Commissioner	Allen J. Puliz

COMMISSIONERS PRESENT VIA TELECONFERENCE

Commissioner	Marilyn Kirkpatrick
Commissioner	Cody T. Winterton

COMMISSIONERS NOT PRESENT

Commissioner	Justin Jones
--------------	--------------

DEPUTY ATTORNEY(S) GENERAL

Special Counsel, Attorney General	David W. Newton
-----------------------------------	-----------------

COMMISSION STAFF IN ATTENDANCE

Senior Assistant Director	Sara Price
Chief of Finance and Administration	Douglas N. Beatty
Assistant Director, Energy Information Systems	Kaleb Hall
Assistant Director, Hydropower	Gail Bates
Hydropower Program Manager	Craig Pyper
Chief Accountant	Gail L. Benton
Environmental Program Manager	Warren Turkett, Ph.D.
Senior Energy Accountant	Stephanie Salleroli
Hydropower Engineering	Stevie Espinosa
System Coordinator	Chris Smith
Administrative Assistant IV	Katie Aguilar
Administrative Assistant III	Saira Castillo
Administrative Assistant II	Joshua Cleveland

OTHERS PRESENT: REPRESENTING

City of Henderson
Clark County Water Reclamation District
Clark County Water Reclamation District
Holley Driggs, LTD.
Lincoln County Power District No. 1
NV Energy
NV Energy
Overton Power District No. 5
Southern Nevada Water Authority
Tenaska Power Services Co.

Michael Houghton
David Stoff
Shawn Mollus
Mary Langsner
Dane Bradfield
Jana Stewart
Michael Hulin
MeLisa Garcia
Annalise Porter
Nick Gilmore

DRAFT

COLORADO RIVER COMMISSION OF NEVADA

MEETING OF

NOVEMBER 8, 2022

INDEX

<u>Agenda Item</u>	<u>Subject</u>	<u>Page No.</u>
A.	Roll Call / Conformance to Open Meeting Law.....	1
B.	Comments from the public. Members of the public are invited to comment on items on the meeting agenda. (No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action).....	1
C.	<i>For Possible Action:</i> Approval of minutes of the June 14, 2022, and August 9, 2022, meetings.....	1
D.	<i>For Possible Action:</i> Consideration of and possible action to approve the First Amendment to the Agreement for Power Supply and Scheduling Services between the Colorado River Commission of Nevada and Tenaska Power Services Co. (“TPS”).....	1
E.	<i>For Possible Action:</i> Consideration of and possible action to approve a contract for legal services between the Colorado River Commission of Nevada, Office of Attorney General and Holley Driggs, LTD.....	2
F.	<i>For Information Only:</i> Status update from Staff on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada’s consumptive use of Colorado River water, the drought contingency plan, impacts on hydropower generation, electrical construction activities and other developments on the Colorado River.	6
G.	<i>For Information Only:</i> Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.....	9

COLORADO RIVER COMMISSION OF NEVADA
MEETING OF
NOVEMBER 8, 2022
INDEX (CONTINUED)

<u>Agenda Item</u>	<u>Subject</u>	<u>Page No.</u>
H.	<i>For Information and Possible Action:</i> Go into closed session, pursuant to NRS 241.015(3)(b)(2) to receive information from the Commission’s Special Counsel regarding potential or existing litigation involving a matter over which the Commission has supervision, control, jurisdiction, or advisory power and to deliberate toward a decision on the matter or both and direct staff accordingly.	11
I.	Comments from the public. Members of the public are invited to comment on items on the meeting agenda. (No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action).	11
J.	Comments and questions from the Commission members.	11
K.	Selection of the next possible meeting date.....	12
L.	Adjournment.....	12

The Colorado River Commission of Nevada (Commission) meeting was called to order by Chairwoman Premsrirut at 1:30 p.m., followed by the pledge of allegiance.

A. Conformance to Open Meeting Law.

Senior Assistant Director, Sara Price, confirmed that the meeting was posted in compliance with the Open Meeting Law.

B. Comments from the public. Members of the public are invited to comment on items on the meeting agenda. (No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action).

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

C. For Possible Action: Approval of minutes of the June 14, 2022, and August 9, 2022, meetings.

Commissioner Kelley moved for approval the minutes of the June 14, 2022, and August 9, 2022, meetings. The motion was seconded by Commissioner Puliz and approved by unanimous vote.

D. For Possible Action: Consideration of and possible action to approve the First Amendment to the Agreement for Power Supply and Scheduling Services Between the Colorado River Commission of Nevada and Tenaska Power Services Co. (“TPS”).

Assistant Director of Hydropower, Gail Bates explained Amendment No. 1 to the Power Supply and Scheduling Services between the Colorado River Commission (Commission) and Tenaska Power Services (TPS) would extend the original contract terms that began on October 1, 2017, currently scheduled to terminate on September 30, 2023, to terminate on December 31, 2028. The amendment allows either party the ability to terminate the agreement with 12-months written notice.

The Commission is the full requirements energy supplier for the Contractors located at the Black Mountain Industrial (BMI) Complex and currently has a Power Supply and Scheduling Agreement in place with TPS to provide certain services to the Commission on behalf of those Contractors.

As part of its energy supply responsibilities, the Commission must ensure that the loads and resources of the BMI Contractors remain balanced. That requires power supplies to be sufficient to serve load at all times. When there is a large enough deviation between the load and the hydropower resources available to serve the load, energy from the market is purchased or sold, sometimes on an hourly basis, to restore balance. Once power resources are acquired, they must also be “scheduled.” The scheduling requires arrangements for the generation and transmission of electricity must be made in advance of when the electricity is to be consumed.

The energy balancing and scheduling functions occurs 24-hours a day, seven days a week. All energy buyers and sellers must be able to perform these functions on a 24-hour basis or contract with a provider that is capable of performing this function. The Commission does not have staff available on a 24-hour basis and has historically contracted with others to perform these functions.

Staff recommended that First Amendment be approved for the following reasons:

- TPS has reliably performed these services for the Commission since October 1, 2017;
- Staff's analysis shows that the TPS contract has been beneficial for the Commission's Black Mountain Industrial Contractors;
- TPS is an experienced energy trading company and has been transacting in the Nevada market for ten years;
- Silver State Energy Association, that purchase and hedges energy for the Southern Nevada Water Authority (SNWA), has recently approved TPS as long-term trading partner; and
- If for some reason in the future, the Commission desired to make a change, the contract allows for termination with 12 months' notice.

Staff recommended the Commission approve the Amendment and authorize the Executive Director to execute the Amendment.

Chairwoman Premsrirut thanked Ms. Bates for the explanation of this Contract and First Amendment to extend contract term to December 31, 2028, for TPS. All parties appear to be satisfied with no objections to the amendment terms and its timeliness.

Commissioner Stewart moved for approval the First Amendment to the Agreement for Power Supply and Scheduling Services Between the Colorado River Commission of Nevada and Tenaska Power Services Co. ("TPS"). The motion was seconded by Commissioner Kelley and approved by unanimous vote.

<p>E. <i>For Possible Action:</i> Consideration of and possible action to approve a contract for legal services between the Colorado River Commission of Nevada, Office of Attorney General and Holley Driggs, LTD.</p>
--

Special Counsel Attorney General, David Newton explained that on September 10, 2022, Basic Water Company (Basic Water), contractor of hydropower with the Commission, filed for Chapter 11 bankruptcy. Basic Water is current with its obligations with the Commission, but the bankruptcy case needs to be monitored and participated in, to address issues that could arise that would affect the Commission or the hydropower resource that is allocated to Basic Water.

Executive Director, Eric Witkoski consulted with Mr. Newton and after consultation with the Nevada State Attorney General's office (AG's office), it was recommended that the Commission in coordination with the AG's office, hire bankruptcy counsel to advise and participate in the Basic Water bankruptcy case as needed.

Holley Driggs, LTD was the selected firm after consulting with several local bankruptcy firms. Holley Driggs was not already involved in the Basic Water bankruptcy case and has experienced bankruptcy attorneys. Mary Langsner, Ph.D. is available on behalf of the firm should there be any questions.

Staff recommended the Commission approve the contract for legal services.

Chairwoman Premsrirut raised a cautionary instruction stating that if any Commissioners have specific questions that might delve into litigation, strategy, or anything along those lines be raised during agenda item H which allows for a special session, so those communications are afforded a privilege. The purpose of this agenda item, the engagement itself should be raised now and any more specifics be tabled until Agenda Item H.

Commissioner Puliz asked why the Commission is tied to Basic Water bankruptcy case.

Mr. Newton responded the Commission's current Basic Water contracts for Hydropower from Hoover and Parker-Davis and one Lower Colorado River Multi-Species Conservation Program ties the Commission to this case.

Commissioner Puliz asked if Basic Water was also tied in with Southern Nevada Water Authority.

Mr. Newton replied that Southern Nevada Water Authority is another named creditor in the matter.

Commissioner Puliz stated is it correct to say that Basic Water does not really owe the Commission a substantial amount of money.

Mr. Newton responded that is correct at this point in time.

Commissioner Puliz replied the Commission is getting involved to make sure there is not a buildup of more debt.

Mr. Newton responded in part; however, Staff is in the process of retaining Counsel.

Commissioner Puliz asked if this was Special Counsel's recommendation.

Mr. Newton replied yes, it was his recommendation. The decision was made after consulting with Mr. Witkoski. Although Mr. Newton studied bankruptcy in law school, it not his field of expertise. Retaining expert counsel is in fairness to the Commission and the agency.

Ms. Price clarified parts of the current Basic Water contracts with the Commission. Basic Water has a Section 5 federal water contract with the Bureau of Reclamation for water deliveries and is also a party on the section 10 permit for the Multi-Species Conservation Program. Because of the interest there, the Commission needs to be involved in the bankruptcy and to be represented by expert counsel to make sure Staff understands the complete process to manage those assets with Basic Water.

Commissioner Stewart stated his full support in getting legal bankruptcy representation. The City of Henderson has been involved and in the middle for a long time as most of the major contracts are between Basic Water and City of Henderson. Commissioner Stewart strongly suggested that this is the suitable time to retain legal representation.

Commissioner Stewart asked if this was the appropriate agenda item to talk about conflicts and potential conflicts or is closed session more appropriate. He has no conflict with Holley Driggs and would love to have them represent the Commission.

Mr. Newton affirmed that either way is appropriate.

Ms. Price asked if the question was pertaining to a conflict of interest or approval of the recommended contract.

Commissioner Stewart asked if Commissioner Winterton has hired Holley Driggs.

Commissioner Winterton thanked Commissioner Stewart and gave full disclosure that Holley Driggs, LTD is used by Commissioner Winterton's company on a regular basis. They are involved in unrelated water contract issues right now along with the City of Henderson.

Commissioner Winterton continued by stating he actually looked at that in anticipation of this question and does not believe his company has any interest in the Black Mountain Industry bankruptcy or has any claims in that case. It is believed there is no direct conflict, yet it is important to raise the issue and just ask that as a question.

Commissioner Stewart agreed and wanted to make sure that it was pointed out. There is no contractual relationship between Basic Water and Lake Las Vegas or any of Commissioner Winterton's entities for clarification.

Vice Chairwoman Kelley appreciated and complimented the negotiators on the contract for the not to exceed contract amount of \$97,000. Vice Chairwoman Kelley asked which Staff member is the contract manager and who will be responsible for reviewing the billable hours.

Ms. Price replied, the review and approval will be the responsibility of Mr. Witkoski, Mr. Beatty, and Mr. Newton. The approved invoices will be routed to the accounting office and processed accordingly.

Vice Chairwoman Kelley asked Mr. Newton if he has practiced law in a private office and also, if Staff had ample experience and confidence in managing the fees for this contract.

Ms. Price responded absolutely. Staff has ample experience and confidence in these matters.

Mr. Newton responded he has a little over three years in private practice of law. He still does not bill in 1/2 hour, or a full hour increment due to many conversations with insurance adjusters. Mr. Newton reviews the invoices of all outside counsel, gets Staff's references and confirmation on the billing to make certain that the billed hours are accurate.

Vice Chairwoman Kelley stated that the comments made were to show the terrific jobs being done by Staff in reviewing and managing expenses. Staff is consistent in communicating with the Commission and keeping our awareness of the budgets which is appreciated.

Chairwoman Premsrirut stated the Commission has retained outside counsel in a plethora of matters and billing issues have not ever surfaced. Being a practitioner herself, attorney's fees depend on how the other side hits the ball over onto your side of the net. It is very unpredictable, like a game of tennis, but in the case of bankruptcy and its monitoring, not only does Holley Driggs, LTD have an exceptional reputation in the community, but also in terms of billing and efficiency.

Chairwoman Premsrirut dovetailed on the comment of Commissioner Winterton's disclosure stating that having a same service provider as Counsel does not constitute or present an actual conflict that would prevent the Commission from proceeding with engagement of Holly Driggs, LTD.

Chairwoman Premsrirut commented that one of the smartest things attorneys can do is admit what they do not know. She thanked Mr. Newton for bringing this to the Commission's attention. Bankruptcy is a very complex code intensive practice area, it is almost like you need a Rosetta Stone, she is glad Staff found one within Holley Driggs.

Vice Chairwoman Kelley moved for approval a contract for legal services between the Colorado River Commission of Nevada, Office of Attorney General and Holley Driggs, LTD. The motion was seconded by Commissioner Puliz and approved by unanimous vote.

F. *For Information Only:* Status update from Staff on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada’s consumptive use of Colorado River water, the drought contingency plan, impacts on hydropower generation, electrical construction activities and other developments on the Colorado River.

Environmental Program Manager, Warren Turkett, Ph.D. presented:

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

Hydrology and Water Use Update

- Precipitation and Temperature
- Colorado Basin River Forecast Center – Lake Powell 104 Group
- Unregulated Inflow, Current and Projected Reservoir Status
- Water Use In Southern Nevada
- Historical and Forecast of Hydropower Generation at Hoover
- Summary

Commissioner Stewart asked if he was looking at the current storage acre feet that is probably in the entire lake or lakes which at some point becomes dead pool making it unavailable.

Dr. Turkett replied yes, that is correct, meaning the portion of dead pool. It will not be accessible or available for release.

Vice Chairwoman Kelley asked if the unrelated unregulated inflow for water year 2023 is the forecast for a 20-year average.

Dr. Turkett responded that it is a 30-year average. It is from 1991 through 2020.

Vice Chairwoman Kelley asked where is Lake Mead’s capacity.

Dr. Turkett asked Vice Chairwoman Kelley if she was referring to hydropower capacity or volumetric?

Vice Chairwoman Kelley responded that she is talking about the levels at Lake Mead.

Ms. Price asked Commissioner Kelley if she was trying to understand how far down the lake levels goes before dead pool.

Dr. Turkett responded that for Lake Mead, 890 feet is dead pool, and there is some storage. The Lake Mead’s level is currently around 1045 feet. The total volume cannot be quoted at this time but can be provided at the next meeting, if needed.

Vice Chairwoman Kelley commented about the infrastructure opportunity for investment hopefully from the federal government through the Bureau of Reclamation in order to retrofit or to upgrade, the intakes was a possibility for a more efficient way of delivering power.

Ms. Bates stated that the Commission is looking at the gamut of opportunities to either upgrade infrastructure or find alternatives. Everything is on the table right now; the Commission is meeting every three to four weeks with the federal government to explore opportunities. For example, the addition of new wide head turbines at Hoover. Several wide head turbines were installed a while back and additional ones can be installed if it makes financial sense to do so. There are some ongoing feasibility analysis studies that would help preserve the current power generation. The Commission is looking at funding sources and whether money is available and to who it is available for aging infrastructure or drought relief. Those funds are not available to the federal government itself, but to the recipient of the federal hydropower resources, Staff is exploring whether or not there are any options there. It is safe to say Staff is talking about anything and everything to improve the situation.

Vice Chairwoman Kelley responded that updates about Lake Mead would be helpful not only for herself but also for the Commission to stay well informed in order to convey information to constituents and/or people in Nevada who may also have the same concerns.

Ms. Bates responded positively and would be happy to provide those briefings at any point in time.

Chairwoman Premsrirut commented that to the extent of these alternatives whether it is tech-based, or infrastructure improvements that become more tangible, the Commission would benefit from that information, so it can be disseminated. It is the responsibility of the Commission to share this information because having such an intelligent and hardworking Staff, it is her belief while having these resources it is incumbent upon the Commission to get out there and spread the word.

Commissioner Puliz asked Dr. Turkett about banked water commenting that Nevada has a bank, Arizona has a bank, and is not certain if California has a bank.

Dr. Turkett responded that California does have a large portion of intentionally created surplus under the 2007 guidelines. Nevada has around 2.2-million-acre-feet, various resources and not all of that is in Lake Mead, though some of it is in groundwater aquifers and other locations.

Commissioner Puliz stated that at least Nevada has ground water and asked if it belongs to Nevada and asked there has to be water there to get it, correct.

Dr. Turkett replied that is correct.

Ms. Price added there is also water banked in Arizona, Commissioner Puliz's concern is correct. Arizona, California, and Nevada store water in Lake Mead and receive credits associated with that.

Ms. Price stated that something to keep in mind is that the Hydrology report presented by Dr. Turkett does not include near-term or long-term options, or actions that are being negotiated. This is sort of a worst-case scenario. If nothing is done the system is going to run into the ground. That is the tension and urgency about getting these near-term actions done as well as long term actions, and the same applies with hydropower.

Ms. Price continued to share that all this is happening in real time, with all parties struggling to have the technology, the intellect, and resources to adjust and respond accordingly. Replacing the turbines with wide head turbines is important, and has been partially completed, however it probably needs to continue to happen at a faster pace along with the current negotiations.

Ms. Price segued stating even though the basin states alternative does not have a consensus or an agreement about what needs to be done, the basin states are still meeting frequently and on a regular basis. There are three meetings scheduled over the next four weeks. The federal government, initially, through the Bureau of Reclamation's (Bureau) Commissioner Touton, urged the basin states to collaborate by expressing the need for 2-to-4,000,000-acre feet of additional reductions each year to keep the system stable. The Bureau threatened that if the basin states did not come up with a plan by August 2022, the Bureau was going to move forward with mandatory federal actions.

This is all happening sort of concurrently. Basin states are negotiating with the federal parties and the federal parties are moving forward with what is believed to be important mandatory actions. One of the changes that has occurred since the last time Staff provided an update is that the Bureau issued a notice of intent to supplement the interim guidelines. The 2007 interim guidelines are what sets out shortage requirements and equalization. The Bureau is looking at near term actions that would address 2023 and 2024, such as to allow for releases below 7,000,000-acre feet. There are other things that are also moving forward like additional reductions and developing a methodology to account for evaporation and losses in the lower basin, something that has not ever been done in the lower basin but equals about 1.2-million-acre feet each year of unaccounted loss.

In the formal near-term process of supplementing the interim guidelines there will be alternatives that will be broached on. Ultimately the basin states are hopeful in reaching the consensus alternative, but it may end up being a hybrid. It may be a consensus as well as some additional federal actions. If nothing happens, the federal government is insisting that it will continue to move and protect the system under health and human safety. Everybody is still at the table trying to reconcile the dire drought and shortages. Staff will continue to update the Commission accordingly.

Chairwoman Premsrirut requested Staff provide a supplement to Dr. Turkett's presentation with an update of drought negotiations, inner workings among the basin states, and the federal government as well.

G. For Information Only: Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.

Special Counsel Attorney General, David Newton provided an update on legal matters. Chief of Finance and Administration, Douglas Beatty gave a quick update on our current external auditors-Moss Adams.

Special Counsel Attorney General, David Newton stated there are two matters other matters current in litigation in addition to Basic Water Company discussed in Agenda Item E:

Navajo Nation v. Dept. Of the Interior:

The federal government filed the intervention on this matter, asking that the states matters be put aside. There is one matter that deals specifically with the federal government, and that is whether or not there is a fiduciary duty that runs between the federal government and the Navajo Nation regarding water right. If that is found to be the case, then the states' matters and the other interveners matters would go forward. If that is found not to be the case, at least based on the federal government's arguments, then the rest of the case is moot. The parties are waiting for further instructions from the court. The court could ask for briefings or simply deny or accept. The request is up to the court as to how it will be handled.

This matter deals with fiduciary duties potentially owned by the federal government to the Navajo Nation. Mr. Newton is working with outside counsel on this litigation. The case has been granted cert by the Supreme Court. The first briefs are due in December 2022. The current timeline appears that oral arguments will probably occur in March 2023.

Because this case has been granted cert and if there is a companion case that the federal government is involved with, it will likely get more press. Depending on the outcome, it will have a big impact on the Colorado River. Mr. Newton stated as read in an article today, if the federal government or if the Supreme Court finds in favor of the Navajo, the 5.5-million-acre feet that is available below the dam will be in peril for all users. Needless to say, because of the amount the Native American tribe could be entitled to, this will create some interest.

Chairwoman Premsrirut thanked Mr. Newton and asked if appropriate, if the Commission is filing our own briefing, joining, or submitting amicus.

Mr. Newton responded that Staff is going to assist Arizona in the drafting and then Staff will sign on to that. Arizona, by far, has the most to lose in this case as they could literally lose their entire allotment from the Colorado River. The Commission is an unnamed intervenor. At this point, Mr. Newton does not anticipate the Commission filing its own brief. If approved the Commission will probably join in an intervenor's brief.

Save the Colorado v. Dept. Of the Interior (LTemp):

This Colorado litigation was set for oral argument about three weeks ago around the week of October 17th, 2022. There was some commentary made by the judge at one point about a year ago that he was not very familiar with this area of the law, therefore expectations are that it will not move quickly. Mr. Newton anticipated that in the next couple of months the matter should be resolved, at least at the trial court level.

Moss Adams update:

Mr. Beatty presented the Commission with an update with regards to our current external auditors-Moss Adams. He informed the Commission that the process is moving along smoothly. While reviewing the previous minutes, Mr. Beatty noticed there was a concern with a letter Moss Adams sent. Mr. Beatty would like to clarify that the letter was good news regarding Moss Adams choosing not to do an entrance conference and sent a letter instead. This is likely due to the results of the prior year's audit and is an indication that they have no new or major concerns.

Mr. Beatty informed the Commission that Staff has supplied Moss Adams with nearly everything needed for the audit, however there are still a couple of pending items outstanding from the state controller's office. Moss Adams can proceed to finish once the final pieces are received from the controller's office. Staff anticipates a Financial and Audit subcommittee meeting on December 13, 2022, to review a draft of the financial report.

Chairwoman Premsrirut asked Mr. Beatty that when he says Staff are awaiting on items from the Controller's office, are these items that they provide to us or are they collaborative.

Mr. Beatty responded that these are items that are provided to us. Some of the information comes from Nevada Public Employees Retirement System (PERS) and some information relates to Public Employees Benefit Program (PEBP) liabilities. The liabilities are provided to the state controller's office in aggregate. Those liabilities have to be parsed out to each of the state agencies. Staff has to wait for the controller's office to determine the Commission's share within those large liabilities.

Additionally, this is the first year Staff is implementing the new lease accounting standards capitalizing on the right-of-use assets and lease liabilities under Governmental Accounting Standards Board Statement (GASB) No. 87. The Controller's office has taken the lead on calculating and working on getting those numbers to staff, that is the last thing pending for this audit.

H. For Information Only: Go into closed session, pursuant to NRS 241.015(3)(b)(2) to receive information from the Commission's Special Counsel regarding potential or existing litigation involving a matter over which the Commission has supervision, control, jurisdiction, or advisory power and to deliberate toward a decision on the matter or both and direct staff accordingly.

Chairwoman Premsrirut stated that this came up in conjunction with Agenda Item E and the retention of Holly Driggs LTD as outside bankruptcy counsel. She was aware that Commissioner Puliz had a few questions within Agenda Item E and asked Commissioner Puliz, or any Commissioners would like to raise any specific questions, if yes, the Commission will proceed into closed session. If the Commissioners were satisfied, then the meeting will proceed to the next agenda item.

Chairwoman Premsrirut asked the Commissioners if they had any need to go into closed session. There was no need.

I. Comments from the public. Members of the public are invited to comment on items on the meeting agenda. (No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action).

Chairwoman Premsrirut asked if there were any comments from any member of the public present in the Chamber or any member of the public participating remotely that wish to address the Commission. There were none.

J. Comments and questions from the Commission members.

Chairwoman Premsrirut asked if there were any comments or questions from any Commission member.

Commissioner Kelley followed up with Mr. Beatty about the conversation held with Commissioner Kirkpatrick regarding the suggestion about the budget mentioned in the June 14, 2022, Commission meeting.

Mr. Beatty stated that he did meet with Commissioner Kirkpatrick along with Mr. Witkoski about 2024/2025 budget suggestions. Some of the areas of Commissioner Kirkpatrick's concern were primarily on whether Staff would potentially have enough budget authority to deal with activity related to the drought, outside expertise assistance, increased meetings, and travel expenses. Staff explored those options, bolstered those areas of concern, and updated the budget. Mr. Beatty is confident Commissioner Kirkpatrick is content with the revised budget.

Commissioner Kelley stated that she is always grateful for Commissioner Kirkpatrick's perspective and expertise in all aspects of government and particularly with the state legislature.

K. Selection of the next possible meeting date.

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, December 13, 2022, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada 89155.

L. Adjournment.

The meeting was adjourned at 2:55 p.m.

Eric Witkoski, Executive Director

APPROVED:

Puoy K. Premsrirut, Chairwoman

DRAFT



Colorado River Commission of Nevada

Hydrology and Water Use Update

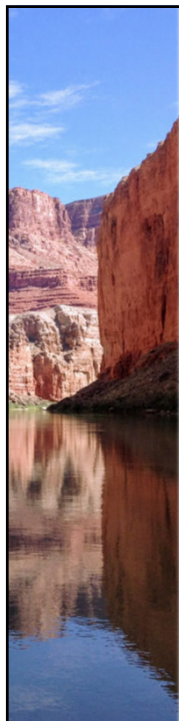
Warren Turkett

November 8, 2022

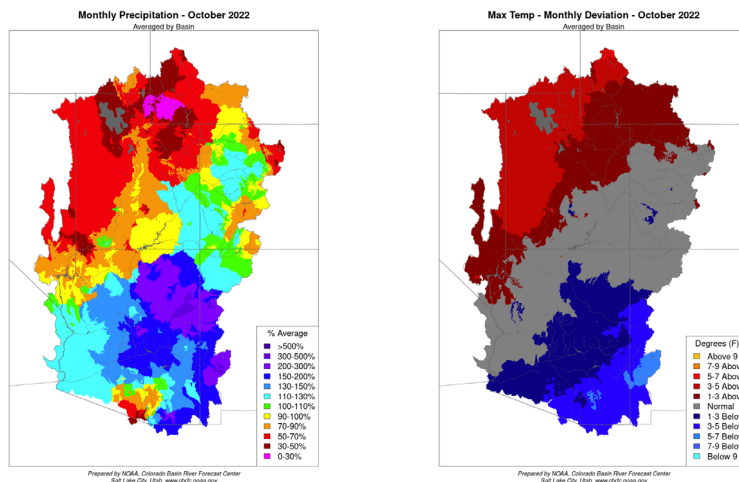


1

1



Precipitation and Temperature

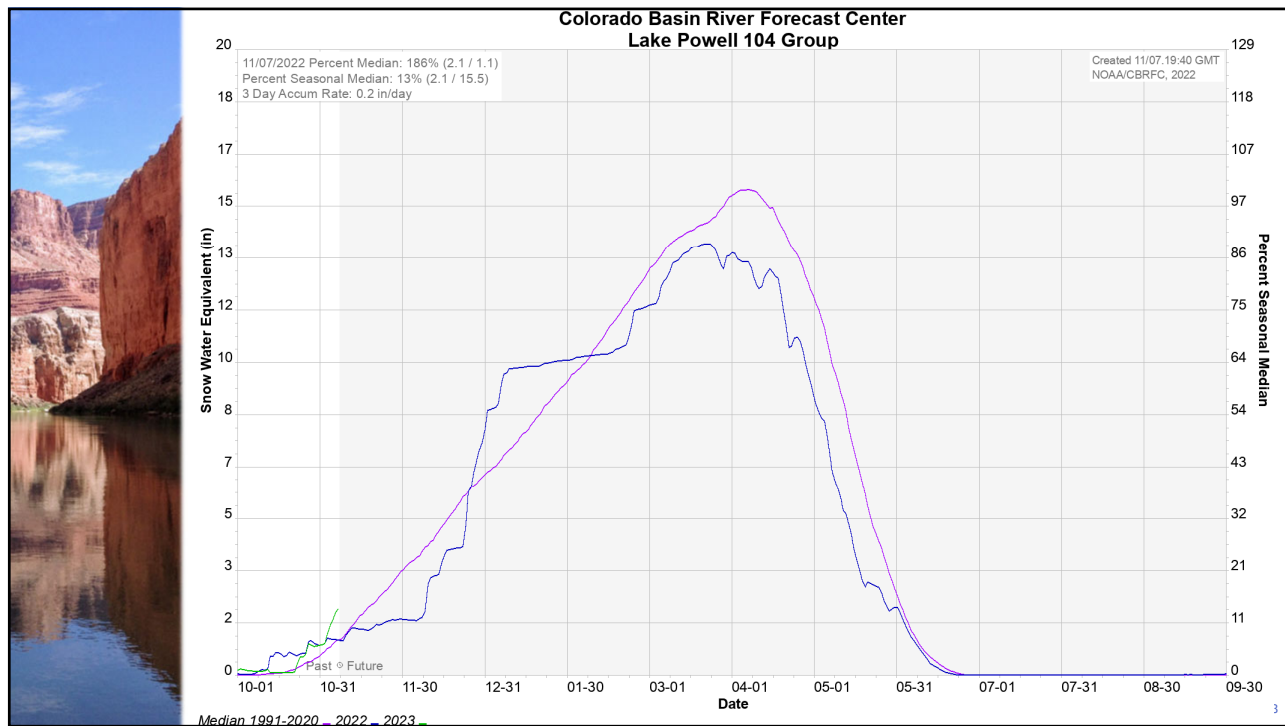


Lake Powell %Average Precipitation Water Year 2023

Area	Oct	Water Year
UC-Powell	84	84

2

2



3

Unregulated Inflow, Current and Projected Reservoir Status

Projected unregulated inflow to Lake Powell	Acre-Feet	% Average
Water Year 2023	8,000,000	83%
April thru July 2023	5,285,000	83%

Reservoir	Current Elevation	Current Storage Acre-Feet	Current % Capacity	Projected Actual Elevation on 1/1/2024 ¹
Lake Mead	1,046.4	7,422,000	28%	1,026.2
Lake Powell	3,529.9	5,834,000	25%	3,523.9

Data retrieved October 24, 2022
¹ Based on Reclamation's October 2022 24 Month Study Most Probable Inflow.

4



Water Use In Southern Nevada

2021 Southern Nevada Water Use

Acre-Feet

Nevada Annual Allocation	300,000
2021 Drought Contingency Plan contribution	-8,000
Diversions	481,079
Return Flow Credits	238,911
Consumptive Use	242,168
Unused Allocation Available for Banking	49,832 (17%)

2022 January - September Southern Nevada Water Use

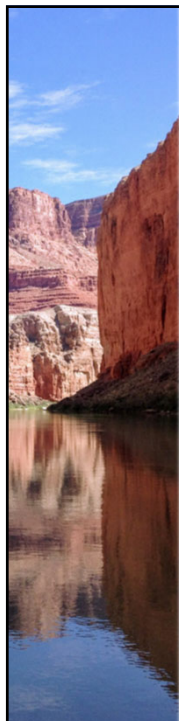
Acre-Feet

Nevada Annual Allocation	300,000
2022 Drought Contingency Plan contribution	-8,000
Interim Guidelines Shortages	-13,000
Diversions	369,909
Return Flow Credits	179,802
Consumptive Use	190,107

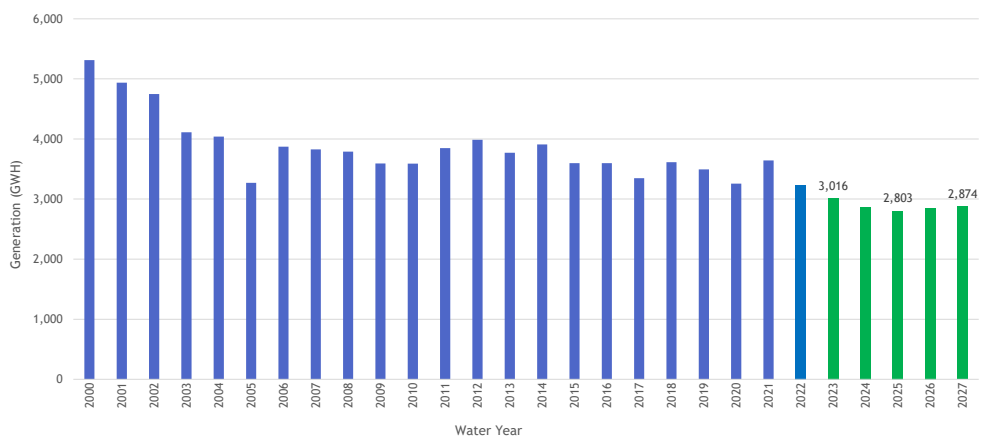
Banked Water (through end of 2021)	2,250,684
------------------------------------	-----------

5

5



Historical and Forecast of Hydropower Generation at Hoover



Historical generation at Hoover Dam in blue and forecasted generation from Reclamation's October 2022 CRMMS model in green. ¹

¹ Hydropower customer receive a percentage of available generation.

6

6



Summary

Lake Powell

- Water year 2023¹ began in October. Upper basin is currently above average for seasonal snowpack accumulation.
- Unregulated inflow for water year 2023 is forecasted to be 83% of average.

Lake Mead

- On August 16, Reclamation announced the 2023 operating conditions for Lake Powell and Lake Mead. In 2023, Lake Powell will start with an initial release of 7 million acre-feet and Lake Mead will operate in a Level 2a Shortage Condition.

Nevada Water Supply

- Southern Nevada has about 9 years of water supply banked.²
- **In 2021, southern Nevada used 57,832 af less than its annual allocation.**

Storage	Current Elevation (f)	% Capacity	Change since last year
Lake Mead	1,046.4	28%	-18.9 ft
Lake Powell	3,529.9	25%	-12.5 ft

Data retrieved October 24, 2022.

¹ Water year is defined as October through September.

² Based on 2021 consumptive use and storage volumes through 2021.

7

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM D
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: <i>For Possible Action:</i> Consideration of and possible action by the Colorado River Commission of Nevada (Commission) to adjust the amount of collateral posted by the Commission's retail industrial contractors for Calendar Year 2023.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION:
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

A. Commission Authority:

The Commission has statutory authority to require power contractors to provide collateral “in such sum and in such manner as the Commission may require, conditioned on the full and faithful performance” of their power contracts. NRS 538.181(2).

Additionally, under the Commission’s regulations, the Commission is to conduct a yearly review to determine the creditworthiness of each of its contractor covered by NAC 538.744. Based on that review, the Commission establishes the amount of collateral and prescribes the way the contractor is required to furnish the collateral pursuant to its contracts with the Commission.

The Commission has latitude on setting the level of collateral, but under NAC 538.744, the collateral cannot be less than 25 percent of that contractor’s Gross Annual Purchases during the test period of October 1, 2021, through September 30, 2022. The Contractor’s “Gross Annual Purchase” reflects the Contractor’s power and related expenses during the test period and does not include revenues that might become available to the contractor to offset those expenses.

B. Analysis of Collateral Requirement:

Staff reviewed the payment history and activity of the industrial contractors during 2022 to make recommendations to the Commission for the collateral level to be set for each contractor for 2023. For four contractors, Lhoist North America, EMD Acquisition LLC, Olin Chlor Alkaline Products, and Titanium Metals Corporation, Staff recommends the collateral requirement be set at the minimum collateral requirement of twenty-five percent of the contractor’s gross annual purchases pursuant to NAC 538.744 3. For these four contractors, the collateral requirement increases due to increased activity of each contractor during 2022.

In respect to Basic Water Company (Basic), Staff recommends no change in the current level of collateral held by the Commission on behalf of Basic in the amount of \$170,077.56. The company filed bankruptcy in September of 2022. Basic still retains two hydropower contracts that Staff is currently laying off to another qualified contractor on short-term arrangement and Basic has a

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM D
FOR MEETING OF DECEMBER 13, 2022**

quarterly payment obligation under the Multi-Species Conservation Program. Staff's recommendation is to retain the collateral until such time as Basic has assigned its contracts and financial obligations to other entities and those assignments are approved by the Commission. If Basic emerges from bankruptcy with plans to continue to operate, Staff will review Basic's plans and activity and evaluate what may need to occur in respect to adjustments to Basic's collateral level at that time.

All of the Commission's retail contractors have posted cash collateral except for Titanium Metals Corporation which has posted a letter of credit. The Staff recommends no change in the form of collateral being posted. In summary, below is a chart with the recommendations for collateral for the respective contractors.

Staff's Recommended Collateral Requirements.

Contractor	Form of Collateral	Present Collateral	Recommended Collateral Requirement	Collateral Adjustment
Basic Water Company	Cash	\$ 170,077.56	\$ 170,077.56	\$ -
Lhoist North America	Cash	\$ 18,786.88	\$ 21,684.43	\$ 2,897.55
EMD Acquisition LLC	Cash	\$ 750,000.00	\$ 789,076.80	\$ 39,076.80
Olin Chlor Alkaline Products	Cash	\$ 50,368.16	\$ 53,789.07	\$ 3,420.91
Titanium Metals Corporation	Letter of Credit	\$ 376,784.95	\$ 503,396.22	\$ 126,611.27
		\$1,366,017.55	\$ 1,538,024.08	\$ 172,006.53

1 Gross annual purchase represent the contractor's expenses during the period of Oct. 2021 through Sept. 2022 and do not include revenues from uncertain revenue streams such as optimization and short-term (balancing and imbalance) sales.

2 Minimum Collateral Requirement is 25% of contractor's gross annual purchases.

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM E
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: <i>For Information Only:</i> Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM F
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: <i>For Information Only:</i> Status update from Staff on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, the drought contingency plan, impacts on hydropower generation, electrical construction activities and other developments on the Colorado River.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM G
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: <i>For Information and Possible Action:</i> Go into closed session, pursuant to NRS 241.015(3)(b)(2) to receive information from the Commission’s Special Counsel regarding potential or existing litigation involving a matter over which the Commission has supervision, control, jurisdiction, or advisory power and to deliberate toward a decision on the matter or both and direct staff accordingly.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION:
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM H
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: Comments from the public. Members of the public are invited to comment on items on the meeting agenda or on items not contained therein. No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM I
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: Comments and questions from the Commission members.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM J
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: Selection of the next possible meeting date.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND:

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, January 10, 2023, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada 89155.

**COLORADO RIVER COMMISSION OF NEVADA
AGENDA ITEM K
FOR MEETING OF DECEMBER 13, 2022**

SUBJECT: Adjournment.
RELATED TO AGENDA ITEM: None.
RECOMMENDATION OR RECOMMENDED MOTION: None.
FISCAL IMPACT: None.

STAFF COMMENTS AND BACKGROUND: