

The meeting was held at 11:00 a.m. on Tuesday, January 11, 2005, at the State of Nevada Sawyer Building, 555 East Washington Avenue, Suite 4412, Las Vegas, Nevada.

COMMISSIONERS IN ATTENDANCE

Chairman	Richard W. Bunker
Vice Chairman	Jay D. Bingham
Commissioner	Andrea Anderson
Commissioner	Ace Robison
Commissioner	Myrna Williams

COMMISSIONERS NOT IN ATTENDANCE

Commissioner	Oscar B. Goodman
Commissioner (In attendance via speaker telephone)	Roland D. Westergard

DEPUTY ATTORNEYS GENERAL

Senior Deputy Attorney General	Gerald A. López
Senior Deputy Attorney General	Sara A. Price

COMMISSION STAFF IN ATTENDANCE

Executive Director	George M. Caan
Deputy Executive Director	Gail A. Bates
Special Assistant to the Director	James D. Salo
Division Chief, Finance and Administration	Douglas N. Beatty
Division Chief, Water	James H. Davenport
Hydropower Program Manager	Malvin Ware
Assistant Director of Engineering & Operations	Bob Reese
Program Officer III	Kaleb Hall
Program Officer II	Jason Thiriot
Natural Resource Specialist	McClain Peterson
Accountant II	Gail L. Benton
Program Officer I	Celta Hannig
Office Manager	Deanna Bruno
Administrative Assistant II	Brenda Haymore
Administrative Assistant II	Janet Nuszbaum
Administrative Assistant II	Lisa Ray
Administrative Aide	Jackie Ward

OTHERS PRESENT; REPRESENTING

AMPAC
Kerr McGee Chemical LLC
City of Boulder City
Electric Utility Consultants
Kummer Kaempfer Bonner & Renshaw
Lake Las Vegas
Las Vegas Valley Water District/SNWA
Nevada Power Company
Overton Power District No.5
Overton Power District No.5
Piercy Bowler Taylor & Kern
Valley Electric Association
Self

Jack Stonehocker
John Holstrom
Ned Shamo
Dave Luttrell
Rose Oram
Steve Weber
Sandy Reed Bottino
Judy Stokey
Delmar Leatham
Richard Jones
Richard Bowler
Brad Gaskill
Melissa Trammel

**COLORADO RIVER COMMISSION
OF NEVADA
MEETING OF JANUARY 11, 2005**

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OF NEVADA
MEETING OF JANUARY 11, 2005**

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	2. First Amendatory Agreement to the August 17, 2004, agreement with Gordon & Silver, Ltd., to adjust the fee schedule and increase the total limit on compensation.	
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Chairman Bunker called the meeting to order at 11:00 a.m., followed by the reciting of the Pledge of Allegiance.

A. Conformance to Open Meeting Law.

Executive Director George Caan confirmed that the meeting was in compliance with the Open Meeting Law.

B. Approval of minutes of the November 9, 2004 meeting.

Commissioner Bingham moved for approval of the minutes of the November 9, 2004 meeting as written. The motion was approved by a unanimous vote.

C. Selection of Vice Chairman.

Chairman Bunker placed Commissioner Bingham in nomination for Vice Chairman.

The motion was approved by a unanimous vote.

D. Consideration of and possible action to approve the amendments to the following contracts to reset the date payment by the Contractor to the Commission is due:

- 1. Amendment No. 1 of Agreement to Advance Funds for Parker-Davis Project Generation Facilities among the Commission and Certain Electric Service Contractors (Contract No. P20-77A1).**
- 2. Amendment No. 2 of Contract No. P03-62 between the Commission and Pioneer Americas LLC for Electric Power Supply.**

Executive Director George Caan stated that the State Controller and State Treasurer have modified their procedures for issuing payments to vendors. The change requires the Commission to have its customer's payments in its account no less than four business days before the date payment to the Commission's vendors is due. These two amendments, have been prepared to conform the customers' payment due date to the State Treasurer's and the State Controller's new procedures. Staff recommended that the Commission approve the two amendments.

Commissioner Bingham then asked why the change.

Mr. Caan stated that he believed it was to have the payments in the account in order to be able to process these payments.

Mr. Doug Beatty added that there were actually two changes. The CRC used to be able to do some of these as wire transfers. The Controller and Treasurer moved away from wires

and are doing what are called ACH's, Automated Clearing House transactions, which are essentially wires, but you do not have to actually have someone to monitor them. They are set up bank to bank. So the change from wires to ACH transactions has increased the time. Then it used to be that we could cue the payments up prior to receipt of the money from our customers, wait for the money to come in and release the payment when the money came in. Now they won't let us cue it up until the money is in the bank.

Commissioner Williams moved for approval, and the motion passed unanimously.

E. Presentation of the Colorado River Commission Annual Financial Report for Year Ended June 30, 2004.

Mr. Doug Beatty stated that Richard Bowler from Piercy, Bowler, Taylor & Kern, the Colorado River Commission's audit firm, would present to present the report.

Mr. Bowler stated that the audit of the financial statements of the Colorado River Commission has been completed for the year ending June 30, 2004, and that all of the Commissioners have received a copy of the report that includes the unqualified opinion on those financial statements. He added that he was happy to report that there are no comments or issues that need to be read into the record.

Commissioner Anderson made the comment that she appreciates all of the explanation in the beginning of the report.

Commissioner Williams moved for approval and the motion was carried by a unanimous vote.

Chairman Bunker expressed the Commission's appreciation to Piercy, Bowler, Taylor, and Kern for the firm's thoroughness of the audit.

F. Consideration of and possible action on Resolution 2005-01 commending Jacquelyn M. Ward for her service to the Colorado River Commission.

Executive Director Caan read Resolution 2005-01, Certificate of Appreciation for Jacquelyn M. Ward, which is attached hereto and made a part of these minutes as attachment A.

Commissioner Williams made a motion to adopt Resolution 2005-01, and the motion was carried with a unanimous vote.

G. Consideration of and possible action to approve the following amendments to the Commission's contracts with certain law firms for the purposes indicated:

- 1. Fourth Amendatory Contract to the August 12, 2003, contract with Duncan, Weinberg, Genzer & Pembroke, P.C., to extend the term of the contract.**
- 2. First Amendatory Agreement to the August 17, 2004, agreement with Gordon & Silver, Ltd., to adjust the fee scheduled and increase the total limit on compensation.**
- 3. Second Amendatory Contract to the November 12, 2002, contract with Gordon & Silver, Ltd., to extend the term of the contract, adjust the fee schedule, and increase the total limit on compensation.**
- 4. Second Amendatory Contract to the January 17, 2003, contract with Miller, Balis & O'Neil, P.C., to extend the term of the contract, adjust hourly rates, and increase the total limit on compensation.**

Special Assistant to the Director, Jim Salo, commenting in his role as Special Deputy Attorney General, acting on the Commission's behalf, stated that several of these contracts relate to legal representation of the interests of the Colorado River Commission and, in some cases, its employees, in current litigation before the FERC, in an arbitration proceeding before the American Arbitration Association in litigation before the federal district court here in southern Nevada. Mr. Salo cautioned that any questions for discussion about the status of the underlying litigation or the present or future strategies to be pursued in that litigation should not and need not occur in a public meeting. Each of the Commissioners, or any of them collectively, are authorized under the law to be briefed by legal counsel on the status and strategy of the litigation at any time outside of a noticed public meeting. Should any of the Commissioners wish to be so briefed, it can certainly be arranged at a convenient time.

Commissioner Bingham indicated that he would like to be briefed.

Mr. Salo assured Commissioner Bingham that it would be followed up on.

Mr. Salo explained that the Commission has entered into contracts with certain law firms for specialized legal services related to proceedings before the Federal Energy Regulatory Commission and to litigation involving the Nevada Power Company. These matters are continuing and require that these contracts be amended to provide for one or more of the following: an extension of the term of the contract, a modification of hourly rates, or an increase in the maximum aggregate cost of the services, as indicated below.

- 1. Fourth Amendatory Contract to the August 12, 2003, contract with Duncan, Weinberg, Genzer & Pembroke, P.C., to extend the term of the contract.**

Mr. Salo stated that at its meeting on July 8, 2003, the CRC approved a personal services contract with Duncan, Weinberg, Genzer & Pembroke, P.C., of Washington, D.C.,

("Duncan Weinberg") to provide needed outside legal services and representation in the Order to Show Cause and relating proceedings (the "Partnership Dockets") before the Federal Energy Regulatory Commission ("FERC"). CRC was unable to use the services of its primary Washington, D.C. counsel, Miller, Balis and O'Neil, because of a potential conflict of interest.

Currently, the maximum aggregate limit on compensation of \$1,050,000 under the Duncan Weinberg contract is sufficient to cover any reasonably anticipated costs for legal services from that firm for the foreseeable future. As a result of the settlement of the CRC's role in the Partnership Dockets, the on-going need for the services of Duncan Weinberg has been reduced materially. However, it is staff's recommendation that this contract be extended beyond its present termination date of June 30, 2005, to allow for the use of Duncan Weinberg's services in FERC-related matters on an as-needed basis. It became apparent over recent years that the CRC may be required to be actively represented before FERC with little notice, and that potential conflicts or other causes may preclude the CRC from utilizing the services of Miller, Balis & O'Neil, its primary legal counsel in matters before FERC. It is important to note that the Duncan Weinberg contract is enabling in nature only, and that further services from this law firm will only be provided upon the request of the executive director. The CRC retains full control over the level of expenditures to be incurred under the contract. Staff has worked closely with Duncan Weinberg for more than a year and finds its legal services to be of a high quality as well as prompt and responsive.

The "Fourth Amendatory Contract for Services of Independent Contractor," extends the term of Duncan Weinberg's contract from June 30, 2005, to June 30, 2006. Most other CRC contracts for legal services currently provide a termination date of June 30, 2006, and staff recommends that this date be incorporated in the Duncan Weinberg contract for consistency and ease of administration.

2. First Amendatory Agreement to the August 17, 2004, agreement with Gordon & Silver, Ltd., to adjust the fee schedule and increase the total limit on compensation.

Mr. Salo reported that on March 17, 2004, Nevada Power Company ("NPC") brought a civil action in the federal district court for the District of Nevada against, among others, certain present officers and former employees of the Commission. They include the executive director, deputy executive director and two former electric power traders. Pursuant to NRS 41.0339, these defendants timely requested legal representation provided by the attorney general and paid for by the State. The attorney general determined that while these defendants are entitled to legal representation under that statute, the provision of legal services by him or his office in this case is impracticable, uneconomical or could constitute a conflict of interest. In these circumstances, NRS 41.03435 authorizes the attorney general to employ special counsel to provide the necessary defense and to compensate the special counsel out of the reserve for statutory contingency account. Effective August 17, 2004, the Attorney General and the Commission, jointly, with the agreement of the respective clients, employed the Las

Vegas law firm of Gordon & Silver, Ltd. to represent the executive director and deputy executive director.

Because the transactions involved in the lawsuit pertain to the power supply function of the Southern Nevada Water Authority Power Delivery Project, the cost of the legal services rendered under this agreement is borne as an operational expense of the Commission. The maximum total limits on compensation provided in the Gordon & Silver agreement represent budgeted estimates designed to support the defense of the Commission's officers and former employees through the trial stage.

The "First Amendatory Agreement for Professional Legal Services," includes a \$440,000 increase in the 'not to exceed' limit on compensation payable under the August 17, 2004, Gordon & Silver agreement. As the case has progressed, staff has gained a better understanding of the extensive scope of discovery, the extensive depositions of current and former employees of Nevada Power Company, the likely need to retain outside expert witnesses and the extensive preparation for trial that will all become necessary long before any trial. As a result, staff finds it necessary and appropriate to ask the Commission to approve this amendment to the Gordon & Silver contract to increase the 'not to exceed' limit on fees and expenses by \$440,000 to an aggregate total of \$590,000.

The "First Amendatory Agreement for Professional Legal Services" also amends the fee schedule provided in agreement to reflect current increases in the hourly rates charged by Gordon & Silver.

3. Second Amendatory Contract to the November 12, 2002, contract with Gordon & Silver, Ltd., to extend the term of the contract, adjust the fee schedule, and increase the limit on compensation.

Mr. Salo explained that on January 5, 2004, Nevada Power Company ("NPC") initiated arbitration against the Commission before the American Arbitration Association. In its demand for arbitration, NPC claimed it was entitled to damages for breach of contract and disgorgement of profits associated with transactions between NPC and the Commission during the period January 1, 2000, through December 31, 2001. The Las Vegas law firm of Gordon & Silver, Ltd., is assisting the Commission in the NPC arbitration under a November 12, 2002, contract entered into with the approval of the attorney general originally in connection with the Pioneer litigation, but extended to include different or additional matters.

Because the transactions involved in the arbitration pertain to the power supply function of the Southern Nevada Water Authority Power Delivery Project, the cost of the legal services rendered under this contract is borne as an operational expense of the Commission. The maximum total limits on compensation provided in the Gordon & Silver contract represent budgeted estimates designed to support the defense of the Commission through the trial stage of the arbitration.

The current termination date of the November 12, 2002, Gordon & Silver contract is June 30, 2005. The "Second Amendatory Contract for Services of Independent Contractor" extends the term of the contract to June 30, 2006, a termination date consistent with most of the Commission's other current contracts for legal services.

The amendment also includes a \$400,000 increase in the 'not to exceed' limit on fees or compensation payable under the November 12, 2002, Gordon & Silver contract. As with the defense of the Commission's present and former personnel under Gordon & Silver's August 17, 2004, agreement, we now have a better understanding of the extensive scope of discovery, the extensive depositions of current and former employees of Nevada Power Company, the likely need to retain outside expert witnesses and the extensive preparation for trial that will become necessary ahead of any trial before the arbitrator. Staff recommended that the Commission approve this amendment to the Gordon & Silver contract to increase the 'not to exceed' limit on fees and expenses by \$400,000 to an aggregate total of \$755,000.

The "Second Amendatory Contract for Services of Independent Contractor" also amends the fee schedule provided in November 12, 2002, contract to reflect current increases in the hourly rates charged by Gordon & Silver.

4. Second Amendatory Contract to the January 17, 2003, contract with Miller, Balis & O'Neil, P.C., to extend the term of the contract, adjust hourly rates, and increase the limit on compensation.

Mr. Salo stated since January 2003, the Commission has utilized the services of Miller, Balis & O'Neil, P.C., ("Miller Balis"), a law firm in Washington, D.C., to provide a range of legal services relating to matters pending before or involving the Federal Energy Regulatory Commission ("FERC"). These matters include filings relating to Sierra Pacific Power Company's and Nevada Power Company's (the "Nevada Utilities") proposed revisions to their Open Access Transmission Tariff ("OATT").

While the Commission is not currently participating in any FERC proceedings with Miller Balis as its counsel, such proceedings can be filed at any time typically with as little as 10 days' actual notice. For the Commission to properly participate and be fully represented before the FERC, it is appropriate that Washington, D.C.-based counsel who specialize in representing clients before the FERC be retained to appear on behalf of the Commission. This is an area of legal specialization not available to the Commission through the Office of the Attorney General. Miller Balis currently represents the Southern Nevada Water Authority before the FERC and is nationally recognized 'FERC Counsel' for many governmental and non-profit entities and organizations. Staff has and continues to work closely with this firm as SNWA's counsel over many months and is very comfortable with their expertise, legal competence and supportive management style. Informal guidance and advice provided by Miller Balis on an on-going and regular basis has proven to be invaluable.

The "Second Amendatory Contract for Professional Services" extends the January 17, 2003, Miller Balis contract to June 30, 2006, a termination date consistent with most of the Commission's other current contracts for legal services. The amendment also includes a \$90,000 increase in the 'not to exceed' limit on fees or compensation payable under the contract, which is estimated to be sufficient to allow the Commission to utilize Miller Balis on FERC matters that are likely to arise over the extended term of the contract. This increase brings the maximum aggregate cost of services to \$220,000. The amendment also modifies the hourly rates provided in the contract to reflect changes in law firm personnel and current increases in the hourly rates charged by Miller Balis.

Mr. Salo stated that the Colorado River Commission is pleased with all of the firms that the CRC is using. They are responsive and available, never having to call twice to get hold of them; on a personal level, he finds that extremely useful and encouraging.

Mr. Bingham stated that for the public record, he would be asking for a meeting with Mr. Caan and Mr. Salo to go through some of the questions that he had.

Commissioner Anderson indicated that she would also like a briefing.

Commissioner Robison stated that he had a briefing with Mr. Salo on these matters and it was very helpful.

Chairman Bunker told Commissioner Westergard that if he wanted to be briefed, he could do so by telephone and Commissioner Westergard agreed that that was a good idea.

Commissioner Williams made a motion to approve the amendments to the Commission's contracts with the law firms as outlined in this agenda item. The motion was carried by a unanimous vote.

H. Comments and questions from the public.

There were no comments from the public.

I. Comments and questions from the Commission members.

In response to the Commission's ongoing question concerning the impact of current storms on water levels in Lake Mead and Lake Powell, Mr. Davenport reported on the snow pack and water shed, including a handout, a copy of which is attached hereto and made a part of these minutes as attachment B.

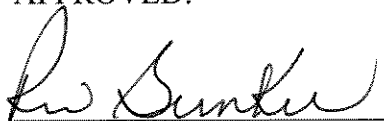
J. Next meeting date selection.

The next meeting is tentatively scheduled for Tuesday, February 8, 2005, at the Clark County Commission Chambers.

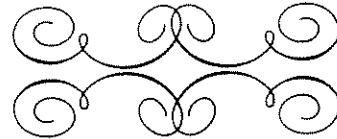
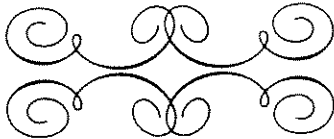
The meeting adjourned at 11:51 a.m.


George M. Caan, Executive Director

APPROVED:


Richard W. Bunker, Chairman

STATE OF NEVADA



Colorado River Commission

RESOLUTION 2005-1
CERTIFICATE OF APPRECIATION
FOR
JACQUELYN M. WARD

WHEREAS, Jacquelyn M. Ward has served the Colorado River Commission for 12 years; and

WHEREAS, Ms. Ward was appointed as the Commission's Administrative Aide on December 7, 1992; and

WHEREAS, Ms. Ward throughout her tenure with the Commission provided administrative support services to the Commission as required making her a valued employee; and

WHEREAS, Ms. Ward's attributes of humor, courtesy, and reliability enhanced her professional demeanor and business skills; and

WHEREAS, Ms. Ward has earned a well-deserved and praiseworthy reputation for unflinching integrity, a firmly principled approach, and meticulous care and thoroughness in all her work; and

WHEREAS, Ms. Ward will retire from state service on January 14, 2005; now, therefore, be it

RESOLVED BY THE COLORADO RIVER COMMISSION OF THE STATE OF NEVADA, That Jacquelyn M. Ward is hereby recognized and commended for her dedication and outstanding service, contributions, and accomplishments as an Administrative Aide for the Colorado River Commission; and be it further

RESOLVED, That a copy of this resolution be prepared and presented to Jacquelyn M. Ward as evidence of the Commission's genuine esteem and appreciation.

Adopted this 11th day of January, 2005.

Richard W. Bunker, *Chairman*

Jay D. Bingham, *Vice Chairman*

Andrea Anderson, *Commissioner*

Oscar B. Goodman, *Commissioner*

Ace I. Robison, *Commissioner*

Roland D. Westergard, *Commissioner*

Myrna Williams, *Commissioner*

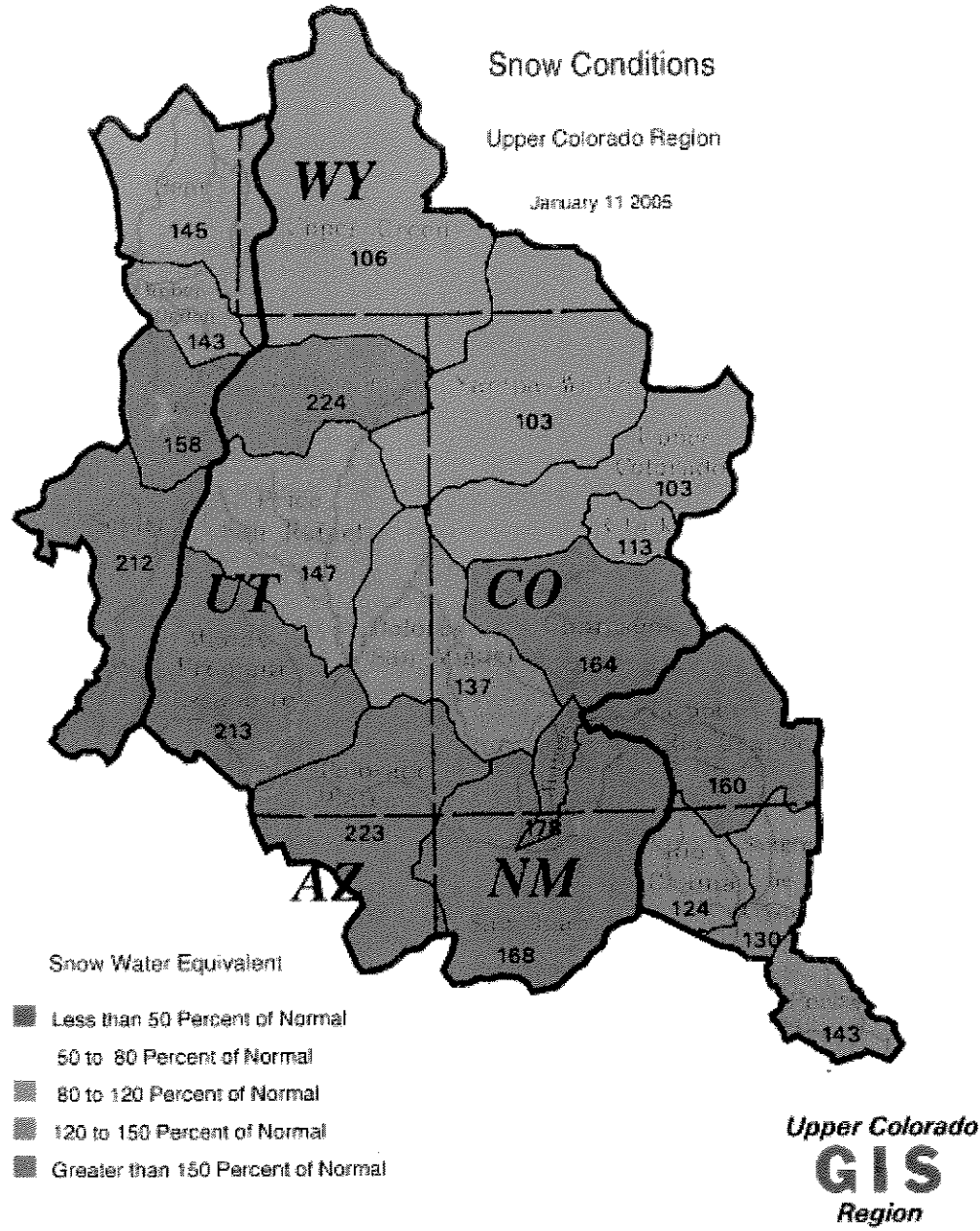
George M. Caan, *Executive Director*

Attachment A

Upper Colorado Region

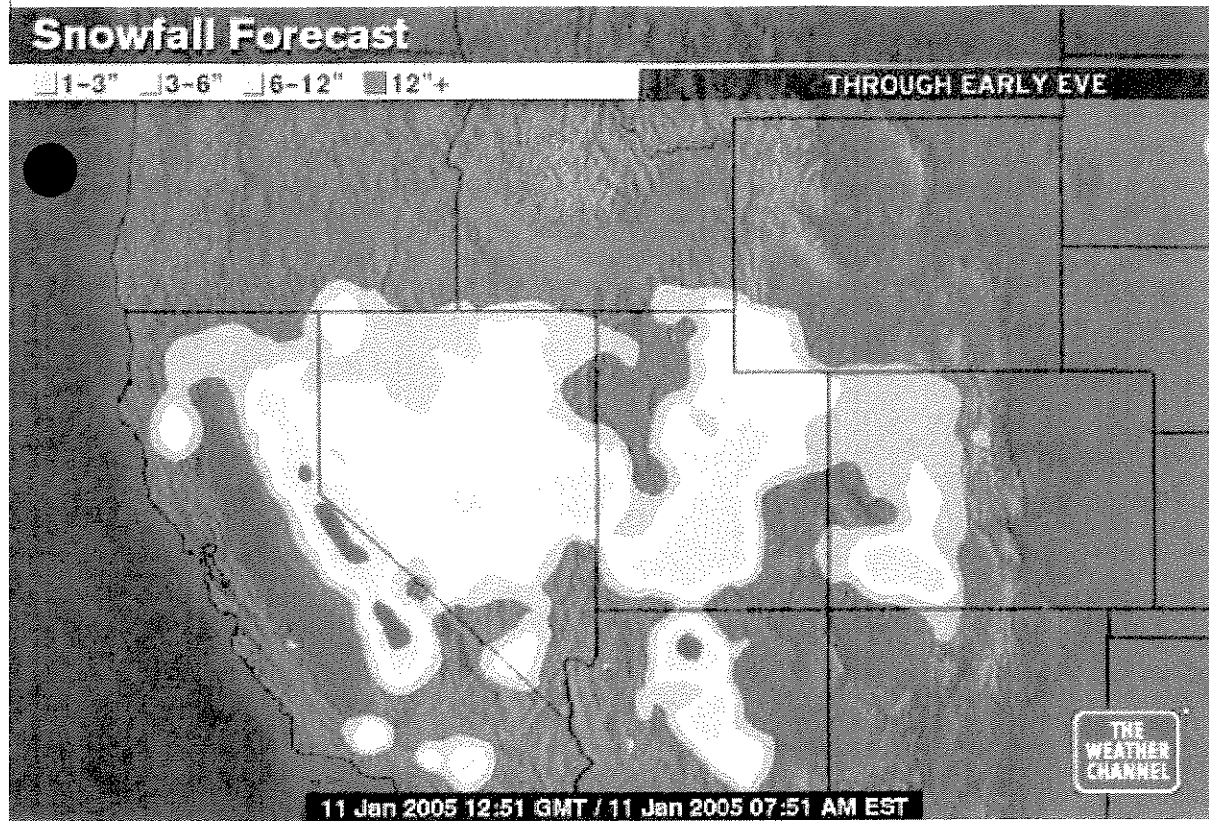
Water Resources Group

River Basin Snowpack/Spring Runoff



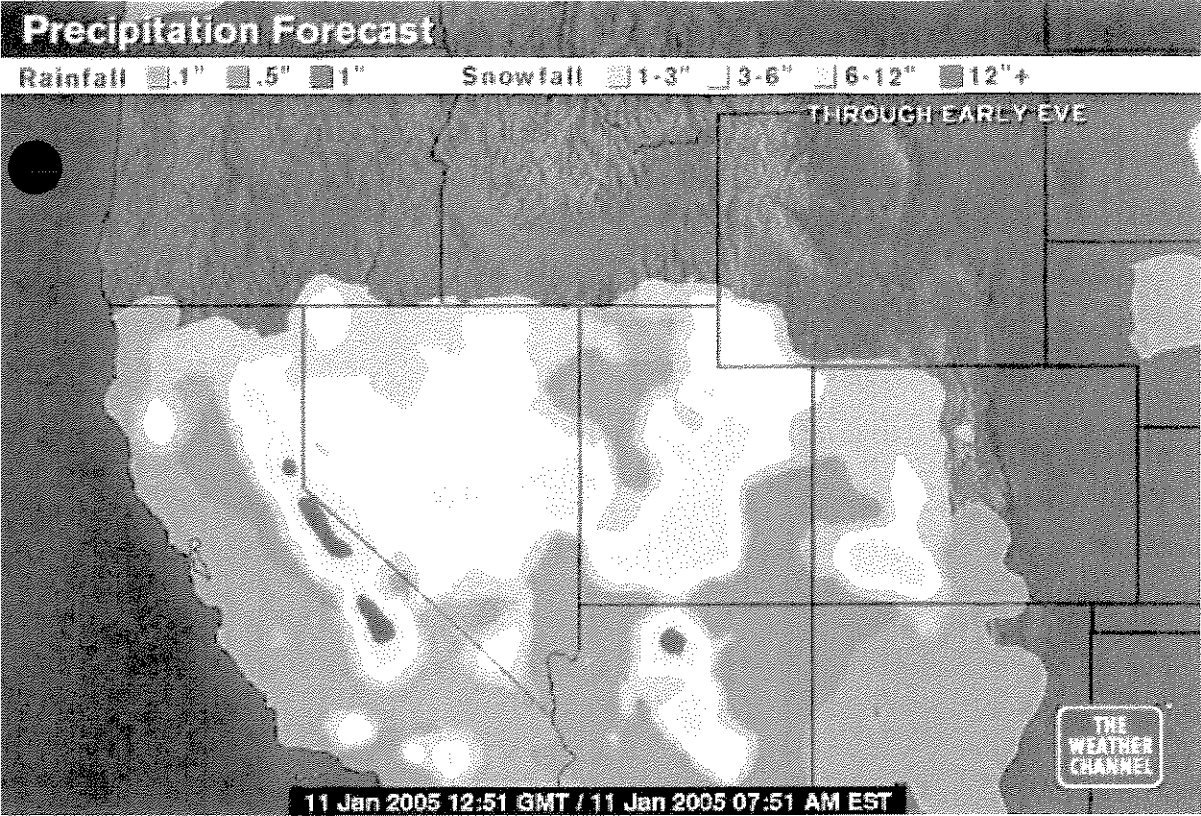
Data Provided by the Natural Resource Conservation Service

Attachment B



[How to read this map](#) [Severe Weather Outlook](#) [National Forecast](#)

West Central US Snow Forecast



[How to read this map](#) [Severe Weather Outlook](#) [National Forecast](#)

West Central US Precip. Forecast ▾