

**The Colorado River Commission of Nevada (Commission) meeting was held at 1:31 p.m. on Tuesday, February 14, 2023, 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	Justin Jones
Commissioner	Marilyn Kirkpatrick
Commissioner	Cody T. Winterton

**COMMISSIONERS PRESENT VIA TELECONFERENCE**

Commissioner	Allen J. Puliz
Commissioner	Dan H. Stewart

**DEPUTY ATTORNEY(S) GENERAL**

Special Counsel, Attorney General	David W. Newton
Special Counsel, Attorney General	Michelle D. Briggs

**COMMISSION STAFF IN ATTENDANCE**

Executive Director	Eric Witkoski
Senior Assistant Director	Sara Price
Chief of Finance and Administration	Douglas N. Beatty
Assistant Director, Hydropower	Gail Bates
Natural Resources Program Manager	Angela Slaughter
Assistant Director, Energy Information Systems	Kaleb Hall
Hydropower Program Manager	Craig Pyper
Chief Accountant	Gail L. Benton
Environmental Program Manager	Warren Turkett, Ph.D.
Senior Energy Accountant	Stephanie Salleroli
System Coordinator	Chris Smith
Hydropower Engineering	Stevie Espinosa
Natural Resources Specialist	Laura Dye
Executive Assistant Manager	Gina L. Goodman
Office Manager	Carol L. Perone
Administrative Assistant III	Saira Castillo
Administrative Assistant II	Joshua Cleveland

## **OTHERS PRESENT: REPRESENTING**

City of Boulder City  
City of Henderson  
Clark County Water Reclamation District  
College of Southern Nevada  
Governor's Office  
Las Vegas Review Journal  
Legislative Counsel Bureau Fiscal Division  
Moss Adams  
NV Energy  
Overton Power District No.5  
Southern Nevada Water Authority  
Southern Nevada Water Authority

Joseph Stubitz  
Becky Risse  
Peter Beaulieu  
Tina Dobbs  
Sonia Joya  
Colton Lochhead  
Bailey Hall / Scott Jones  
Keith Simovic  
Jana Stewart  
Mendis Cooper  
Jordan Bunker  
Laura Browning

**COLORADO RIVER COMMISSION OF NEVADA**

**MEETING OF**

**February 14, 2023**

**INDEX**

<b><u>Agenda Item</u></b>	<b><u>Subject</u></b>	<b><u>Page No.</u></b>
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 December 13, 2022, meeting.....	1
D.	<i>For Possible Action:</i> Selection of Vice Chair of the Commission.....	1
E.	<i>For Possible Action:</i> Consideration of and possible acceptance of the Commission's Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and a report or comments from the Finance and Audit Subcommittee members regarding the report. ....	1
F.	<i>For Possible Action:</i> Consideration and possible action regarding the Governor's Executive Order 2023-003 (the "Executive Order"), to review executive agency regulations to streamline, clarify, reduce, or improve and report to the Governor's Office on or before May 1, 2023. Delegate authority to Execute Director to hold public hearing required by Executive Order.....	3
G.	<i>For Information Only:</i> Status update on 2023 Legislative Session and related budget matters submitted for approval for Fiscal Years 2024 and 2025.....	5
H.	<i>For Information Only:</i> Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.....	6

**COLORADO RIVER COMMISSION OF NEVADA**

**MEETING OF**

**February 14, 2023**

**INDEX (CONTINUED)**

<b><u>Agenda Item</u></b>	<b><u>Subject</u></b>	<b><u>Page No.</u></b>
I.	<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
J.	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 .....	8
K.	Comments and questions from the Commission members.....	8
L.	Selection of the next possible meeting date.....	8
M.	Adjournment .....	8

The Colorado River Commission of Nevada (Commission) meeting was called to order by Chairwoman Premsrirut at 1:31 p.m., followed by the pledge of allegiance.

**A. Conformance to Open Meeting Law.**

Executive Director, Eric Witkoski 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 December 13, 2022, meeting.**

Commissioner Kirkpatrick moved for approval the minutes of the December 13, 2022, meeting. The motion was seconded by Vice Chairwoman Kelley and approved by unanimous vote.

**D. For Possible Action: Selection of Vice Chair of the Commission.**

NRS 538.111 provides: "At the first meeting of the Commission in each calendar year, the Commission shall select the Vice Chair for the ensuing calendar year."

Commissioner Kirkpatrick moved to retain Commissioner Kara J. Kelley as the Vice Chair for the Commission. The motion was seconded by Commissioner Stewart and approved by unanimous vote.

**E. For Possible Action: Consideration of and possible acceptance of the Commission's Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022, and a report or comments from the Finance and Audit Subcommittee members regarding the report.**

Chief, Finance and Administration, Doug Beatty presented the Annual Comprehensive Financial Report (ACFR) for Fiscal Year Ended June 30, 2022. The ACFR was reviewed by the Financial and Audit Subcommittee at the meeting held on December 13, 2022. At that point in time, Staff was awaiting confirmation on a couple of numbers that had been supplied by the State Controller's office. Within a week Staff received confirmation that those numbers were accurate.

During the Financial and Audit Subcommittee meeting, Moss Adams provided a presentation which showed no audit adjustments noted, nor any reportable, findings, or material weaknesses.

Mr. Beatty provided a copy of the Communications Letter which detailed the summary of the audit. He also provided a copy of the financial statements. Mr. Beatty announced that Mr. Keith Simovic with Moss Adams was present via remotely in this meeting for any questions.

Vice Chairwoman Kelley thanked Mr. Beatty, Gail Benton, Stephanie Salleroli, and Staff for their hard work. She further thanked the auditors, Moss Adams LLP for their commitment to be collaborative and for recognizing their responsibilities to the Commission but also for their accuracy and excellent work with the agency Staff.

Vice Chairwoman Kelley stated the following for the record. Under the significant findings and issues which is part 2 of the Moss Adams "Communications with Those Charged with Governance" note that there are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred. The main significant accounting estimates relate to the pension and other post-employment benefits. This represents the amount of annual expense recognized for pensions and related pension liability and how they determine that it is reasonable. On page 3 there were no unusual transactions. There were no significant difficulties encountered in performing the Audit. There were no disagreements with management. There were no circumstances that affected the form and content of the auditor's report. They found no material corrected or uncorrected misstatements during the course of the engagement.

Vice Chairwoman Kelley believes it is important to point out the mentioned Items in a way that allows the public to understand when viewing our minutes in the shorthand that it was a positive audit for the Colorado River Commission of Nevada. She also believes this is the type of audit that is expected because of the support of our qualified Staff, but we are always welcome as a Commission to any input that would allow us to operate more efficiently, more responsibly or more in accordance with the regulatory measures.

Mr. Beatty added that this was the first year that Staff implemented GASB-87, the leases standards, which was a major new pronouncement and has had material effects on almost every government entity, as it did with the Commission, the calculations were very complex. The state controller's office got involved, but Moss Adams worked with Staff to ensure that the implementation was smooth, walking Staff through all the steps and being supportive. Staff were appreciative of the approach of the auditors to make sure that the standard was accurately implemented.

Chairwoman Premsrirut thanked Mr. Beatty and asked for clarification to read into the record if GASB statement 87 pertains to leases and its essentially lease assets and liabilities recorded at present value.

Mr. Beatty responded yes. Historically, many leases were not recorded as liabilities but now are recognized for the commitment that they are. GASB 87 New Lease Standard established a single lease accounting model based on the principle that leases are financings of the right to an underlying asset. Therefore, it creates an asset and then it creates a liability which is then amortized over the lease period.

Mr. Witkoski acknowledged Mr. Beatty, Gail Benton, and Stephanie Salleroli for doing a nice job with the audit in spite of having to do more work and despite losing one of our accountants in October 2022.

Chairwoman Premsrirut added that she had one point to highlight primarily because it dispelled something that she had always been thinking. Despite the decreased levels in hydrology our hydropower production has only decreased slightly from last year. She was expecting it to be a lot more, and she stated that maybe that was just her misapprehension of the impact of the lower water levels. However, based on the audit and the financial highlights, it is only a slight decrease, so she was pleased to read that.

**Commissioner Kirkpatrick moved for approval the consideration of and possible acceptance of the Commission's Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022. The motion was seconded by Commissioner Jones and approved by unanimous vote.**

**F. *For Possible Action:* Consideration and possible action regarding the Governor's Executive Order 2023-003 (the "Executive Order"), to review executive agency regulations to streamline, clarify, reduce, or improve and report to the Governor's Office on or before May 1, 2023. Delegate authority to Executive Director to hold public hearing required by Executive Order.**

Mr. Witkoski presented the Executive Order. In January, Governor Lombardo issued Executive Order 2023-003 *Order Freezing the Issuance of New Regulations and Requiring a Review of Existing Regulations by All Executive Branch Agencies, Departments, Boards and Commissions*. The Executive Order requires the Commission to;

- "Undertake a comprehensive review of the regulations subject to its enforcement."
- "On or before May 1, 2023, each department, agency, board and commission shall provide a report to the Governor's office detailing how the regulation subject to its enforcement can be streamlined, clarified, reduced or otherwise improved to ensure those regulations provide for the general welfare of the State without unnecessarily inhibiting economic growth."
- The Commission, "...shall provide a list of not less than ten (10) regulations recommended for removal."

The Executive Order does allow for some exceptions to the requirement for the preference for reduced regulation that is outlined in Section 5 of the Executive Order. The exceptions include regulations that affect public health, public safety and security, regulations that affect the powers, functions, and duties essential to the operation of the Commission.

Mr. Witkoski further spoke about history and recommendation. The Commission completed a rulemaking in June of 2018 and repealed 11 regulations and modified eight

regulations. Thus, there may be a case to be made the Commission was ahead of the curve on reducing regulations. However, there may be some other regulations that can be repealed to meet the Governor's request while maintaining other regulations would fit under the exceptions outlined in the Executive Order.

Staff recommended that the Commission allow the Executive Director to notice and preside over the public hearing to solicit comments consistent with the Executive Order regarding input on the Commission's regulations and prepare a report to send to the Governor's office on or before May 1, 2023, consistent with the Executive Order. At this time, an April Commission meeting is being planned and the Executive Director expects to report to the Commission in April the results of the review of the regulations.

Chairwoman Premsrut asked if there were any discussions on this.

Mr. Witkoski responded, yes. The Executive Director plans on holding a Notice of Public Hearing to Solicit Comments on Regulations of the Commission, to obtain input from the public. Staff will probably have some proposals and after looking at the regulations, there are about five that could be repealed. Once Staff has feedback, there will be further internal discussions. The plan is to come back to the Commission on April 11, 2023, to present the findings. Mr. Witkoski acknowledged that Commissioner Kelley suggested the Commission hold a second public hearing in April as part of the Commission's meeting that would allow an opportunity for additional comments. Staff plans to include on the Commission's agenda in April a second public hearing on the regulations.

After the Commission meeting in April, Staff will compile a report to send to the Governor's office by May 1, 2023. Chairwoman Premsrut commented that essentially, she construes this agenda Item as establishing a protocol for issuing notices, receiving comments for rulemaking and proposed regulations. It also allows the Executive Director to issue those Notices and preside over the public hearings.

Mr. Witkoski agreed. However, it is his belief that the Colorado River Commission is not the target audience but will comply with the Executive Order. To save the Commissioners' time Staff recommended to delegate authority to the Executive Director to review the Commission's regulations in accordance with the Governor's Executive Order 2023-003, hold a public hearing for comment regarding such regulations, and respond to the Governor's Office by May 1, 2023.

Chairwoman Premsrut commented that prior to this, she recalls the similar process, the comments and any agenda Items or anything germane to what we were discussing with respect to the rules would be packaged and presented to the Commission. She asked if Staff would have that same reporting and transparency in this.

Mr. Witkoski responded, yes.

Commissioner Kirkpatrick commented that although it says 10 regulations, there are a lot of departments that will not be able to do that recommendation. She hopes that Staff could ask for other things that can actually has benefits for our Staff in areas of efficiency, like Human Resource (HR) processes and purchasing processes, things that they can



look at, some overall regulations that can maybe change. She believes this is a great opportunity to think outside the box.

Mr. Witkoski responded that Commissioner Kirkpatrick brought up a good point and added that Mr. Beatty and Ms. Goodman have been involved in this process to request procedure changes. There is an effort going on, to do some things on HR and some of the regulations. Some of them may require statute changes, which already have bills drafted. The state has a high vacancy rate; therefore, it is trying to simplify the hiring process and some of those changes are statutes or regulations.

**Vice Chairwoman Kelley moved for approval the consideration and possible action regarding the Governor's Executive Order 2023-003 (the "Executive Order"), to review executive agency regulations to streamline, clarify, reduce, or improve and report to the Governor's Office on or before May 1, 2023 delegating authority to Executive Director to hold public hearing required by Executive Order, with the exception Staff will report back to the Commission on April 11, 2023, to present the findings during which the Commission will also accept additional comments from the public as attendees see fit. If the Commission is deluded with interest, it will be managed appropriately to make sure the Commission gets the information to the Executive Department as requested, with the caveat that as this process happens, the Commission will take into account regulations that if repealed or changed that might affect the ability for the Colorado Commission of Nevada to exercise in a more efficient way. The motion was seconded by Commissioner Jones and approved by unanimous vote.**

<b>G. <i>For Information Only: Status update on 2023 Legislative Session and related budget matters submitted for approval for Fiscal Years 2024 and 2025.</i></b>
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Mr. Witkoski commented that the Commission's budget was submitted as part of the governor's recommendation. It was pretty much unchanged, and the Commission's budget hearing has not yet been scheduled by the Legislature.

Chief of Finance and Administration, Douglas Beatty provided a status update on the 2023 Legislative Session and related budget matters submitted for approval for Fiscal Years 2024 and 2025. The budget was submitted, as the Commission had approved in their August 9, 2022, meeting, however there were some technical changes made by the Governor's Finance Office.

The Governor's Finance Office pulled a couple of contracts out for the Legislature to look at as enhancement units. The Commission got all the other enhancement units that were asked for in this budget with the exception of one, which was a contingency unit in case the Commission was removed from the Grant Sawyer State Office Building (GSB). However, it is unclear of what the actual plans are in terms of repairing or replacing the GSB, so that was not included in the Governor's Budget as a funded item.

Chairwoman Premisrirt asked if there were any questions for Mr. Beatty. There were none.

**H. *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 three pending legal matters. He also introduced Michelle Briggs, the new Special Counsel to the Commission.

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

The order dismissing that matter was entered December 23, 2022. They have 60 days if they are going to appeal it. We have about a week, maybe 10 days, that they could still file an appeal in that matter.

**Basic Water Company bankruptcy:**

The bankruptcy matter is proceeding as expected. They have set a tentative date for the sale to be June 7, 2023, or something close to that date.

**Navajo Nation v. Dept. Of the Interior:**

The Navajo matter is currently set to be heard at the Supreme Court, March 20, 2023. We have been doing moot courts to prepare the Arizona attorneys who are handling the oral argument.

Chairwoman Premsrirut asked if the Commission has the same counsel representing our interests.

Mr. Newton answered, yes. The counsel is Fennemore Craig.

Chairwoman Premsrirut asked regarding the dismissal for Save the Colorado, if she could get a copy of that order for her review.

Mr. Newton responded, yes. A copy of that order will be provided to Chairwoman Premsrirut per her request. Mr. Newton added that it was dismissed with prejudice, which is somewhat unusual.

**I. *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., and Senior Assistant Director, Sara Price presented:

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

### **Hydrology and River Updates**

- Precipitation and Temperature
- Colorado Basin River Forecast Center – Lake Powell 104 Group
- Lake Powell End-of-Month Elevations
- Lake Mead End-of-Month Elevations
- Water Use In Southern Nevada
- Negotiations and Updates

### **Supplemental Environmental Impact Statement for 2007 Guidelines**

- Six Basin States (Nevada, Arizona, Colorado, Utah, New Mexico, Wyoming) submitted a Consensus Based Modeling Alternative (CBMA) to Reclamation on January 31, 2023, proposing a robust set of modeling assumptions for Reclamation to evaluate and incorporate in the development of the SEIS.
- California submitted a separate alternative for Reclamation to consider on January 31, 2023, that differs from the above six state proposal most particularly in the absence of approximately 1.5 MAF of infrastructure protection volume assessments based on evaporation and system losses in the lower basin.
- Both the Six-State CBMA and the California alternative seek to protect Lake Powell and Lake Mead at 3500 and 1000 feet respectively.
- Reclamation plans to consider the submitted proposals and issue a draft SEIS in April, allow for a public comment period and publish a Record of Decision to be released over the summer.
- Despite the current proposal differences, the Seven Basin States are still continuing to negotiate towards a Seven-state consensus alternative.

Chairwoman Premsrirut asked Ms. Price if the primary distinction with the California alternative is that they do not want consideration of evaporation and those factors to be part of the process in determining the operations now.

Ms. Price responded that right now the evaporation system loss assessment that is part of the six states proposal has a formula. It is a formula that was originally proposed by SNWA and was vetted to the seven states. In the lower basin it has everything to do with the orientation of how far down the reaches you are. California being at the end of the line, those agricultural communities would take the biggest hit under the proposed formula. This is included in the six states' modeling proposal. California continues to maintain that runs amok of the priority system, and that is where the rub is. Now, whether evaporation losses get calculated as such or whether it is called something different, or whether we can make up those differences in reductions somewhere else, or whether we can get California to participate in a way that is more comfortable for them is really what is to be seen.

**J. 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.**

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 was none.

**K. Comments and questions from the Commission members.**

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

Chairwoman Premsrirut commented that she had one token of gratitude for Staff as well as the area manager of Hoover Dam, Glen Canyon Dam, Len Shilling. Mr. Schilling was kind enough to take time out of his busy schedule and take us on one of the most in-depth tours that she has ever been on, not just of Hoover Dam, but on any type of machine infrastructure construction. It was soup to nuts one of the most informative, thorough, really shocking things to see, and the fact that he was able to accommodate us. She also thanked Mr. Witkoski and Staff for carving time and accommodating this tour. If anyone ever has the chance to do that, she strongly recommends they do.

**L. Selection of the next possible meeting date.**

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, March 14, 2023, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada 89155.

**M. Adjournment.**

The meeting was adjourned at 2:13 p.m.

  
Eric Witkoski, Executive Director

APPROVED:

  
Puoy K. Premsrirut, Chairwoman