

The Colorado River Commission of Nevada (Commission) meeting was held at 1:31 p.m. on Tuesday, June 14, 2022, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, NV 89155.

COMMISSIONERS IN ATTENDANCE

Vice Chairwoman
Commissioner
Commissioner
Commissioner

Kara J. Kelley
Marilyn Kirkpatrick
Justin Jones
Allen J. Puliz

COMMISSIONERS PRESENT VIA TELECONFERENCE

Commissioner

Cody T. Winterton

COMMISSIONERS NOT PRESENT

Chairwoman
Commissioner

Puoy K. Premsrirut
Dan H. Stewart

DEPUTY ATTORNEY(S) GENERAL

Special Counsel, Attorney General
Senior Deputy Attorney General

Christine Guerci
David W. Newton

COMMISSION STAFF IN ATTENDANCE

Executive Director
Senior Assistant Director
Chief of Finance and Administration
Assistant Director, Energy Information Systems
Assistant Director, Engineering and Operations
Assistant Director, Hydropower
Hydropower Program Manager
Natural Resources Program Manager
Senior Energy Accountant
Senior Energy Accountant
Senior Energy Accountant
Hydropower Engineering
Natural Resources Specialist
System Coordinator
Office Manager
Administrative Assistant IV
Administrative Assistant III
Administrative Assistant II

Eric Witkoski
Sara Price
Douglas N. Beatty
Kaleb Hall
Robert D. Reese
Gail Bates
Craig Pyper
Angela Slaughter
Gail L. Benton
Stephanie Salleroli
Ha N. Tran
Stevie Espinosa
Laura Dye
Chris Smith
Gina L. Goodman
Katie Aguilar
Saira Castillo
Joshua Cleveland

OTHERS PRESENT; REPRESENTING

City of Boulder City
Fennemore Craig, P.C.
Legislative Counsel Bureau
Legislative Counsel Bureau
Legislative Counsel Bureau
Overton Power District No. 5
Overton Power District No. 5
Southern Nevada Water Authority

Joseph Stubit
Lauren J. Caster
Bailie Hall
Justin Luna
Scott Jones
MeLisa Garcia
Mendis Cooper
Tom Maher

COLORADO RIVER COMMISSION OF NEVADA

MEETING OF

June 14, 2022

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COLORADO RIVER COMMISSION OF NEVADA

MEETING OF

JUNE 14, 2022

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The Colorado River Commission of Nevada (Commission) meeting was called to order by Vice Chairwoman Kelley 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. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.)

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

C. *For Possible Action:* Approval of minutes of the March 8, 2022, meeting.

Commissioner Justin Jones moved for approval the minutes of the March 8, 2022, meeting. The motion was seconded by Commissioner Puliz and approved by unanimous vote.

D. *For Possible Action:* Consideration of and possible action to approve Amendment No. 3 to Contract SA-12-01, extending the contract term to June 30, 2025, for Substation Automation System Support Services between Schweitzer Engineering Laboratories, Inc., and the Colorado River Commission of Nevada.

Assistant Director of Engineering and Operations, Robert Reese presented.

A. Request for Amendment of Contract:

The requested Amendment No. 3 is an extension of the contract for three more years to June 30, 2025, and there is no request to add any additional amount authorized under the contract. The current balance remaining on the contract is \$279,532 and that is expected to sufficient for the term of the extension.

B. Background on Operations and Contract

The Commission uses an automation system to operate its transmission and distribution facilities, monitor equipment status and to respond to operational events in providing electric services to its customers including the Southern Nevada Water Authority, the Clark County Water Reclamation District, and the Basic Substation Project.

The services of an outside vendor are needed from time-to-time for the routine operation and maintenance of the system such as troubleshooting, programming, and modifying the computer systems associated with the automation system. These services include

updating of Human-Machine Interface (HMI) screens or updates utilizing the installed software on the system development node and updating those HMI screens to operating nodes; updating communication processor settings; updating substation automation system database and set points; troubleshooting from remote locations; and restoration of the automation system in the event software or a server is temporarily or permanently rendered inoperable.

Staff anticipates the continued need for these substation automation system support services and, therefore, asks the Commission to approve an amendment to the contract with Schweitzer Engineering Laboratories, Inc. (SEL), in order to enable the Commission and its electric customers to continue to benefit from Schweitzer's proprietary software and to avoid the additional costs that would result from obtaining these services from a different contractor.

The contract with Schweitzer is an enabling type of contract which allows the Commission to use none, or all of the services listed above. The work is authorized on an individual task basis. If the Commission requires the company to perform work, a "Task Authorization" is prepared and submitted for approval. A task authorization must contain a description of the work to be performed, a list of deliverables, a schedule for completing the assignment, and a budget for the task.

Mr. Reese stated the Colorado River Commission of Nevada (Commission) has the responsibility and assets of 17 high voltage substations and about 34 miles of transmission line that are operated and maintained on behalf of the Southern Nevada Water Authority (SNWA) to make up the communication and our SCADA system. There are components that must interface with the existing surveillant SCADA system, which is the HMI platform. Schweitzer Engineering Laboratories, Inc., is the backbone of the intelligent devices, protection scheme and data collector that interfaces with the HMI the Human Machine Interface, which we have discussed during Agenda Item E.

Mr. Reese further stated, currently there is a contract with SEL however the contract term is due to end. The Commission would like to extend the contract for another three years. There are sufficient funds in the existing contract to suffice for any foreseen activity needed; this contract is strictly for a three-year extension on the existing contract extending the term to June 30, 2025.

Vice Chairwoman Kelley asked a procedural question about the amendment process and if the Commission is allowed to amend contracts and add amendments in perpetuity or if at one point it is required by law or regulation to readdress them.

Special Counsel Attorney General, Christine Guerri, commented that the Commission works in conjunction with the State's purchasing system and the State's Administrative Manual therefore it's not in perpetuity. Contracts can be extended for a certain period of time but eventually contracts will need to go back out. Ms. Guerri continued that some of the Commission's contracts, particularly Mr. Reese's contracts, as well as some of the outside counsel contracts, are sole source, therefore sole source contracts are allowed

to be extended and amended for greater periods of time than other types of contracts that would have more vendors.

Commissioner Kirkpatrick moved for approval. The motion was seconded by Commissioner Jones and approved by unanimous vote.

E. *For Possible Action: Consideration of and possible action to approve Amendment No. 3 to Contract SA-12-02, extending the contract term to June 30, 2025, for Substation Automation System Support Services between Survalent Technology Inc., and the Colorado River Commission of Nevada.*

Assistant Director of Engineering and Operations, Robert Reese presented.

A. Request for Amendment of Contract:

The requested Amendment No. 3 is an extension of the contract for three more years to June 30, 2025, and there is no request to add any additional amount authorized under the contract. The current balance remaining on the contract is \$280,715 and that is expected to sufficient for the term of the extension.

B. Background on Operations

The Power Delivery Project's existing supervisory control and data acquisition system (SCADA) for its substations is separated into two key components: the automation system and the business enterprise system. The automation system enhances the Commission's ability to operate its transmission and distribution facilities, monitor equipment status and to respond to operational events.

The services of an outside vendor are needed from time to time for the routine operation and maintenance of the system such as programming, troubleshooting, and modifying the computer systems associated with the automation system. Types of services that may be required include updating of Human-Machine Interface (HMI) screens or updates utilizing the installed software on the system development node and updating those HMI screens to operating nodes; updating communication processor settings; updating substation automation system database and set points; troubleshooting from remote locations; and restoration of the automation system in the event software or a server is temporarily or permanently rendered inoperable.

Staff anticipates the continued need for these substation automation system support services and therefore asks the Commission to approve an amendment to the contract with Survalent, to enable the Commission and its electric customers to continue to benefit from Survalent's proprietary software and to avoid the additional costs that would result from obtaining these services from a different contractor.

The contract with Survalent is an enabling type of contract which allows the Commission to use none, or all of the services listed above. The work is authorized on an individual task basis. If the Commission requires the company to perform work, a "Task

Authorization” is prepared and submitted for approval. A task authorization must contain a description of the work to be performed, a list of deliverables, a schedule for completing the assignment and a budget for the task.

Mr. Reese stated this is the second major component in our SCADA system. The HMI side, which is the interface and actual read-write operations of our system. Schweitzer Engineering Laboratories, Inc., which is all the intelligence gathering, puts the information into the proper protocol for Survalent, which is the SCADA system to display it, so the operators can see what is happening in the system Contract SA-12-02 was a sole-source contract, and the Commission requested a three-year extension of this contract while utilizing the existing funds in the contract.

Commissioner Kirkpatrick moved for approval. The motion was seconded by Commissioner Puliz and approved by unanimous vote.

F. *For Possible Action:* Consideration of and possible action to approve an Amendment No. 7 to Contract for Services of Independent Contractor among Fennemore Craig, P.C., the Office of the Attorney General, and the Colorado River Commission of Nevada (Commission) extending the contract term to June 30, 2024, for legal services.

Special Counsel, Attorney General, Christine Guerici, presented.

A. Request for Amendment of Contract:

The requested Amendment No. 7 is an extension of the contract for two more years and is not requesting any additional amount be authorized on the contract. The current balance remaining on the contract is \$65,606 and that is expected to last for the near term. After a ruling from the United States Supreme Court, expected this fall, the Staff can better evaluate whether a further extension or funds need to be added.

B. For Reference Below Is a More Detailed History of the Case:

The pending lawsuit was initiated in 2003, and challenged current Colorado River operations, including the 2007 Guidelines, Federal banking regulations (which permit us to bank Nevada’s water in Arizona and California) and potentially the agreements and associated river operations relating to Minute 319 with Mexico. In addition, this significant litigation threatens the stability of the Law of the River that the Seven Basin States rely on and may ultimately result in a water adjudication in the District Court or the United States Supreme Court.

The Navajo Nation appealed to the 9th Circuit Court, and the case was fully briefed before that court. Oral argument was heard on November 13, 2017. A decision of the Court was issued November 6, 2017, with the decision published on December 4, 2017.

The Ninth Circuit directed the District Court “to consider fully the Nation’s breach of trust claim in the first instance, after entertaining any request to amend the claim more fully to flesh it out.” *Navajo Nation v. Department of Interior*, 876 F.3d at 1173. On remand, the District Court authorized the Nation to file a motion for leave to amend its complaint by April 13, 2018. Responses to that motion are due by May 29, 2018. The Nation may file a reply in support of its motion by June 19, 2018. Civil Minutes (filed Feb. 13, 2018). Rule 15.1, Local Rules of Civil Procedure (D. Ariz.), requires that the Nation attach the proposed third amended complaint to its motion, indicating by redlining how it differs from the Second Amended Complaint.

On August 23, 2019, the Arizona District Court issued its Order denying the Navajo’s request to amend its complaint and terminated the case. *Navajo Nation v. Department of Interior*, 2019 Westlaw 3997370 (D.Az. 2019). The District Court specifically addressed the Navajo’s trust claims and stated: “Since none of these substantive sources of law create the trust duties the Nation seeks to enforce, and the Nation “cannot allege a common law cause of action for breach of trust that is wholly separate from any statutorily granted right”, its breach of trust claim must fail, and amendment would be futile (citation omitted)”. The case was appealed to the 9th Circuit Court of Appeals on the trust issue.

The 9th Circuit reversed the dismissal of the lawsuit by the Arizona court and instructed the District Court to address the Navajo’s breach of trust claims. The Federal defendants and the Intervener states filed separate Motions for Rehearing En Banc Earlier this month, which were denied.

On May 17, 2022, the Intervener States including Nevada filed a Petition for Certiorari with the United States Supreme Court focused on two questions:

I. Does the Ninth Circuit Opinion, allowing the Nation to proceed with a claim to enjoin the Secretary to develop a plan to meet the Nation’s water needs and manage the Colorado River so as not to interfere with that plan, inherently and necessarily infringe upon this Court’s retained and exclusive jurisdiction over the allocation of water from the LBCR mainstream in *Arizona v. California*

II. Can the Nation state a cognizable claim for breach of trust consistent with this Court’s holding in *Jicarilla* based solely on unquantified implied rights to water under the *Winters* Doctrine?

This Contract Amendment No. 7, is to amend the contract to extend its term to allow Fennemore Craig to continue to defend the case on behalf of the State of Nevada, the Colorado River Commission of Nevada, and the Southern Nevada Water Authority.

Ms. Guerri, stated that Fennemore Craig and Mr. Caster have been the Commission’s outside counsel on the Navajo litigation for approximately 15 years.

Mr. Caster was present via teleconference.

Ms. Guerci continued to report that Senior Deputy, Attorney General, David Newton will report on the litigation update, but we are still ongoing in the Navajo litigation. The intervenor states have filed their writ of certiorari to the Supreme Court after the 9th Circuit remanded the case that had been up there. This was the second time up at the 9th Circuit. Therefore, this is a long way of saying Mr. Caster had a lot of knowledge, as he has been on this case for a very long time and is somebody that is vital for Nevada to keep retaining.

Commissioner Jones moved for approval. The motion was seconded by Commissioner Kirkpatrick approved by unanimous vote.

G. <i>For Information Only:</i> Introduction of budget recommendations for the Commission's budget for Fiscal Years 2024 and 2025.

Chief of Finance and Administration, Douglas Beatty provided a presentation on upcoming budget recommendations.

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

- Commission's Budget Process
- Colorado River Commission Accounts
- Colorado River Commission Budget Highlights
- Review of Draft Budget for Fiscal Years 2024 and 2025

Vice Chairwoman Kelley asked if there were any questions.

Commissioner Marilyn Kirkpatrick expressed her concern over the overall adequacy of the initial budget request since the legislature is likely to reduce the budget and there are very important issues surrounding the drought and other inflationary pressures that will need to be dealt with in the upcoming biennium. Commissioner Kirkpatrick stated her concern with being overly financially conservative and the difficulties of requesting additional funds in the future. Commissioner Kirkpatrick requested a meeting with Executive Director, Eric Witkoski and Mr. Beatty to review further questions.

Mr. Beatty stated the budget is still being discussed and that there is time to make adjustments as needed and additionally that the Governor's Finance office will also likely have changes to the budget before it is introduced to the legislature. Mr. Beatty acknowledged Commissioner Kirkpatrick's concerns, expressed the importance of potential budgeting for emergency or inflationary items and agreed to review the adequacy of key items and continue the discussion prior to the August Commission meeting.

Vice Chairwoman Kelley thanked Commissioner Kirkpatrick for her questions and encouraged Mr. Beatty to meet with Commissioner Kirkpatrick to address her suggestions. Vice Chairwoman Kelley requested of Mr. Beatty to inform the other commissioners of such a meeting, should it occur.

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

Senior Deputy Attorney General, David W. Newton provided an update on legal matters.

Mr. Newton stated the Commission is waiting to find out if the Federal Government is going to intervene in the matter on the writ for certiorari. They have applied for that and have been granted 2 extensions to continue to examine that question, therefore we are not sure on that yet.

Mr. Newton continued the second matter is the LTEMP Litigation (*Long Term Experimental and Management Plan Final Environmental Impact Statement*) which were dealing with operations at the Glen Canyon Dam, the parties are in the briefing stage in this matter. The brief, along with the other state interveners, is due Friday. The draft has been completed. We are also waiting on the Feds for this one too. They do not like to share ahead of time, so we are not sure exactly what they are arguing, therefore there may be some tweaks to the finalized version.

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.

Laura Dye, Natural Resources Specialist provided a presentation with the latest hydrological conditions report:

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

- Upper Basin Precipitation and Temperature
- Upper Basin Snowpack and Runoff
- Current Reservoir Status
- 2022 Reservoir Operations and Drought Operations
- Water Use in Southern Nevada
- Reclamation's Lake Mead Projection

Vice Chairwoman Kelley asked if there were any questions. There were none.

J. *For Possible Action: Consideration of and possible action by the Colorado River Commission of Nevada to recognize the Southern Nevada Water Authority's (SNWA) acknowledgement and demonstration of appreciation to the Commission for the excellent work by Robert Reese, Assistant Director of Engineering and Operations, and his staff, on SNWA's Low Lake Level Pumping Station.*

Executive Director, Eric Witkoski presented Assistant Director of Engineering and Operations, Robert Reese and his Staff with a plaque in recognition of SNWA's Low Lake Level Pumping Station.

Vice Chairwoman Kelley, congratulated Robert Reese for his great work and expressed her appreciation for the partnership with the Southern Nevada Water Authority. Vice Chairwoman Kelley encouraged commission members to take a tour to see how everything intertwines and how power is managed.

K. *For Possible Action: Consideration of and possible action by the Colorado River Commission of Nevada to commend Christine Guerci for her service as Special Counsel to the Colorado River Commission of Nevada and acknowledge her retirement from State service.*

Executive Director, Eric Witkoski presented Special Counsel Christine Guerci with a plaque, commending Ms. Guerci for her service as Special Counsel to the Colorado River Commission of Nevada and acknowledged her retirement from State service. Mr. Witkoski added that Ms. Guerci has worked through a lot of the contract issues with us with WAPA, she has been a great help to the Commission and Ms. Guerci's contributions have been felt and are appreciated.

L. **Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)**

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

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

Vice Chairwoman Kelley asked if there were any comments from the Commission members. There were none.

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

The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, August 9, 2022, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada 89155.

O. Adjournment.

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



11/8/22


Eric Witkoski, Executive Director

APPROVED:


Kara Kelley (Nov 22, 2022 2:56 PST)

Nov 22, 2022

For Puoy K. Premsrirut, Chairwoman




Colorado River Commission of Nevada

Draft Budget Presentation


Introduction Presentation

June 14, 2022



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CRCNV's Budget Process

- Proposed budget is provided to CRCNV's customers for review in a budget workshop prior to introduction to the Commission. The budget workshop was conducted on April 27, 2022. There were no requested changes to the budget as a result of the workshop.
- Draft budget presented to the Commission at public meeting for information in May or June. No action on the draft budget is required at this meeting.
- Final draft budget is presented to the Commission at a second public meeting in July or August for approval.
- The approved budget is adapted to the required format and submitted to the Governor's Budget Division for inclusion in the Governor's Executive Budget by September 1. The budget then follows normal State and Legislative processes.

2

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Colorado River Commission Accounts

- The CRCNV major budget accounts are:
 - 296-4490 - Administrative Account. This account includes all personnel costs, the majority of travel costs, all state allocated costs, and other general agency costs
 - 296-4497 - Lower Colorado River Multi-Species Conservation Program (MSCP).
 - 502-4501 Power Delivery Project (PDP Enterprise Fund) - Market power purchases for customers, direct and allocated costs of the PDP and Energy Services function.
 - 505-4502 Power Marketing (Enterprise Fund) - Hydropower related costs.

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Colorado River Commission Budget Highlights

- The budget request reflects a projection of current costs over the biennium, with some targeted increases as we return to post-pandemic operations.
- No increase in the Hydropower Administrative Charge is anticipated to accommodate the return to normal operations.
- The budget includes requested increases in travel over the current (base) year costs in line with average costs in pre-pandemic years.
- The budget includes increases in market power purchase costs to accommodate customer loads returning to pre-pandemic levels.
- The budget includes a request for budget authority to accommodate the potential relocation of the Commission's offices. The Sawyer Building is currently scheduled for a complete remodel and the agencies will be moved to other locations while this is performed. The costs associated with that move are not currently known, but this request will allow for the possibility of increased lease expense.

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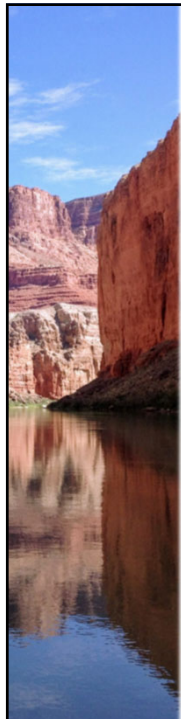


Colorado River Commission Budget Highlights (continued)

- The budget includes a requested increase to one position in the Energy Services Group to allow for realignment of the group lead position to be at the same level as other group lead positions.
- The budget includes a request to replace one administrative vehicle with a new electric vehicle if building charging facilities are available at the location assigned when the Sawyer building is remodeled.
- The budget includes routine computer replacements in compliance with state guidelines.
- The budget includes Small increases for anticipated operational continuity, such as gasoline and other inflationary items.

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Review of Budget Document



We will now briefly review
the Draft Budget Document
as presented to the
customers at the April
Budget Workshop.

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Colorado River Commission of Nevada

Hydrology and Water Use Update

Laura Dye

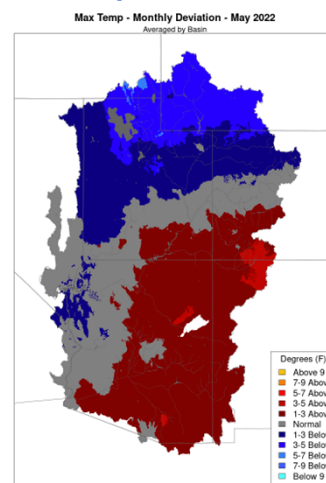
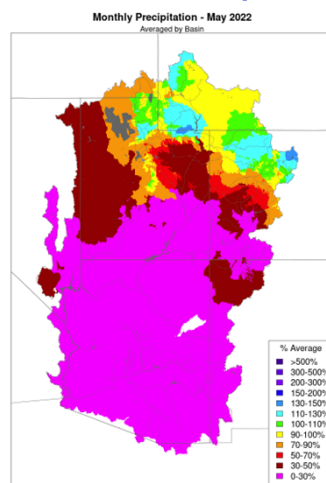
June 14, 2022



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Precipitation and Temperature

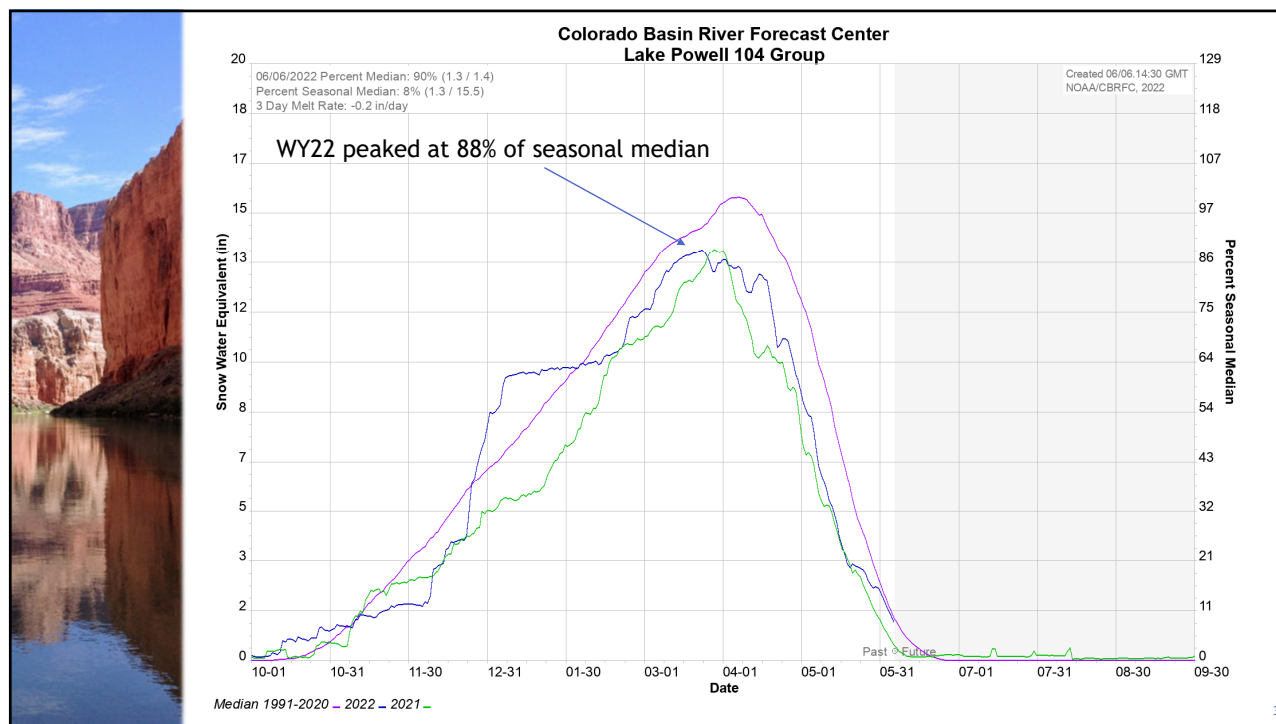


Lake Powell %Average Precipitation Water Year 2022

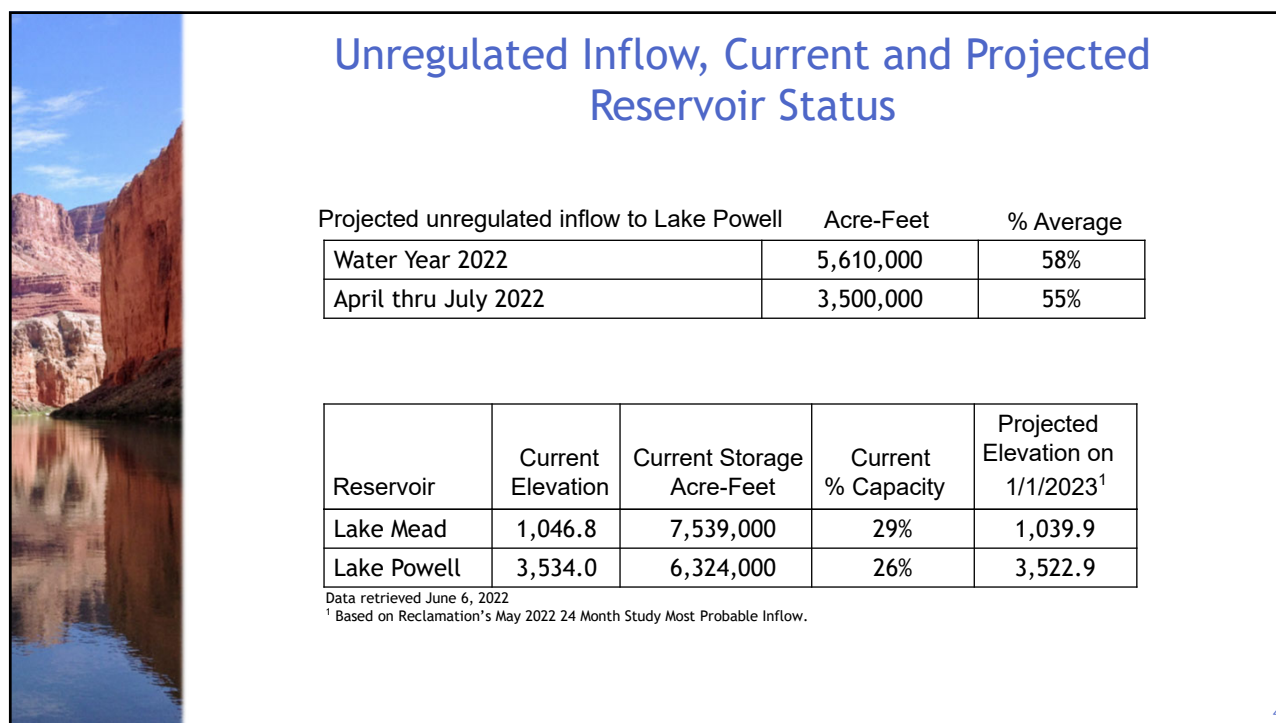
Area	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Water Year
UC-Powell	127	45	206	51	62	84	69	78	90

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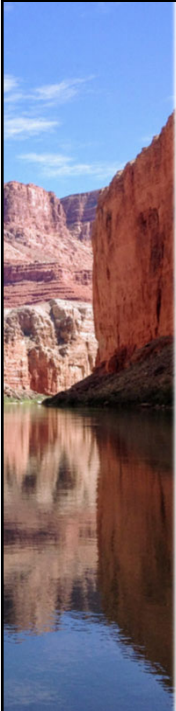
Water Use In Southern Nevada

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

Southern Nevada Water Use	Diversions	Return Flows	Consumptive Use
January - April 2022	134,178	78,005	56,173

Banked Water (through end of 2021)	Acre-Feet
Ground Water Recharge in So. Nevada	356,955
Banked in Lake Mead	949,658
Banked in California and Arizona	944,071
Total	2,250,684

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Summary

Lake Powell

- Water Year 2022¹ has received 90% of average precipitation in the Upper Basin.
- Upper Basin snowpack peaked at 88% of the seasonal median.
- Unregulated inflow for water year 2022 is forecasted to be 58% of average.

Lake Mead

- In calendar year 2022, there will be a Tier 1 shortage under the 2007 Guidelines and required DCP contributions for Nevada and Arizona.
- Over the last 6 years, the Lower Basin has conserved enough water to raise Lake Mead by 65 feet.

Nevada Water Supply

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

Storage	Elevation (f)	% Capacity	Change since last year
Lake Mead	1,046.8	29%	-25.4 ft
Lake Powell	3,534.0	26%	-27.4 ft

Data retrieved June 6, 2022.
¹ Water year is defined as October through September.
² Based on 2021 consumptive use and storage volumes through 2021.

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