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**COLORADO RIVER COMMISSION**  
OF NEVADA

November 21, 2011

STATE OF NEVADA  
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VIA FEDERAL EXPRESS

Ms. Susan Joseph-Taylor  
Chief Hearing Officer  
Nevada Division of Water Resources  
901 South Stewart Street, Suite 2002  
Carson City, NV 89701

**SUBJECT:** In the Matter of Applications 53987 through 53992, inclusive, and 54003 through 54021, inclusive filed to Appropriate the Underground Waters of Spring Valley, Cave Valley, Delamar Valley and Dry Lake Valley Hydrographic Basins (180, 181, 182 and 184), Lincoln County and White Pine County, Nevada

Dear Ms. Joseph-Taylor:

The Colorado River Commission of Nevada (CRCN) respectfully submits these comments on the above-referenced water rights applications.

The CRCN is an agency of the State of Nevada, which is a sovereign state of the United States and a signatory party to the 1922 Colorado River Compact, 70 Cong. Rec. 324 (1928). Pursuant to NRS 538.171, the CRCN is Nevada's statutory trustee of all rights, interests and benefits in and to the waters of the Colorado River enjoyed by and within the State of Nevada. The CRCN is specifically charged with representing the State of Nevada relative to interstate negotiations involving management of the Colorado River.

The reality that is the genesis of this entire discussion is the fact that the Colorado River is over-allocated. The Colorado River Compact of 1922 allocated 7.5 million acre-feet (maf) annually to each the Lower Basin and the Upper Basin of the Colorado River. In addition, by virtue of the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, Treaty Between the United States of America and Mexico (Treaty Series 994, 59 Stat. 1219), 1.5 maf is allotted annually to the country of Mexico.

Accordingly, the total annual allocation of Colorado River water is 16.5 maf, which substantially exceeds the amount of available Colorado River water. Between 1906 and 2006, the annual average inflow to the Colorado River was 13-15 maf (CRCN, 2006)<sup>1</sup>. Thus, the total consumptive use of 16.5 maf results in the River operating at an annual deficit of between 1.5-3.5 maf. Based on a hundred years of historical data, the River cannot supply enough water for all of its current uses.

Of the Lower Basin's annual 7.5 maf share, the Boulder Canyon Project Act (BCPA) established and the 1964 Decree (547 U.S. 150 (2006))<sup>2</sup> confirmed Nevada's 0.30 maf share of Colorado River water. By comparison, California and Arizona are respectively allocated 4.4 maf and 2.8 maf annually. As noted in the DEIS, southern Nevada is nearly completely dependent on this Colorado River share, as this volume supplies approximately 90% of its water.

In addition to its small share of Colorado River water, Nevada is facing new threats to its water security. The Colorado River has experienced below average inflow for 9 of the past 12 years. This prolonged drought dropped the surface elevation at Lake Mead by 132 feet in the ten years between 2000 and 2010, resulting in two significant threats to Nevada's ability to take its full allocation of Colorado River water. The first threat is that Nevada's allocation will be reduced by 13,000 acre-feet when the level of Lake Mead drops below surface elevation 1075 feet. In November 2010, Lake Mead reached a low of 1082 feet, only 7 feet above the 1075 feet shortage trigger elevation. Secondly, Nevada's ability to withdraw water from current intakes is threatened if the drought persists and Lake Mead's water level continues to drop.

Given Nevada's dramatically smaller apportionment of Colorado River water relative to the other Colorado River Basin States, some have questioned why Nevada does not challenge the legally defined water allocations made among the Basin States in an attempt to increase Nevada's share. Taking such action, however, would require challenging almost a hundred years of federal agency decisions, Congressional action, a U.S. Supreme Court decision, an International Treaty and numerous multi-state compromises, all of which constitute the Law of the River. While everyone in the State of Nevada would agree that a greater allocation of Colorado River water would be the ideal solution to the water needs of the driest State in the nation, the realistic alternative is to work within the parameters of the 1922 Compact and the subsequent legal framework that have provided the foundation for the innovative solutions that we have developed to date.

In this regard, the CRCN and the Southern Nevada Water Authority (SNWA) have actively pursued cooperative agreements among the seven Basin States for additional Colorado River supply. This work has resulted in innovative solutions to permit and encourage water conservation and augmentation such as water banking agreements with Arizona and California,

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<sup>1</sup> "Laws of the Rivers": The Legal Regimes of Major Interstate River Systems of the United States (2006). Colorado River Commission of Nevada.

<sup>2</sup> The 1964 Decree in *Arizona v. California* was incorporated in 2006 into the Consolidated Decree reported at 547 U.S. 150 (2006).

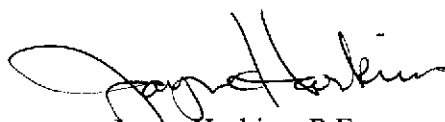
conservation projects and augmentation strategies, including the importation of the Virgin and Muddy Rivers and the construction of the Warren H. Brock Reservoir. These projects have resulted in additional short-term Colorado River supplies for Southern Nevada. The legal framework permitting these new solutions was negotiated and agreed to by the seven Basin States and formally implemented by the Secretary of the Interior as part of the Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations of Lake Powell and Lake Mead (2007), which has been incorporated into the Law of the River.

As part of this cooperative process, however, the other Basin States expressed their view that Nevada must develop in-state resources before attempting to pursue additional alternatives related to the Colorado River. The SNWA's Groundwater Development Project is one of the few available in-state resources that will allow Nevada to meet its obligations to the other Basin States. Far more importantly, however, it will contribute to the stability of the entire State by providing Southern Nevada the long-term water supply it so desperately needs to remain a thriving community.

The realities of living in the Southwestern United States, where 30 million people depend on an over-allocated water resource, is that each Basin State must work tirelessly to diversify its water portfolio within its resources. In this regard, Nevada differs from the other Basin States only in the virtual absence of resources in its portfolio. This paucity of alternative resources, together with Nevada's meager allocation of Colorado River water, creates a daunting challenge for Nevada to develop a long-term supply of water to meet Southern Nevada's needs. The development of the few in-state non-Colorado River resources that Nevada does have, such as the SNWA's Groundwater Development Project, are necessary for Southern Nevada to continue to drive the economy of the entire State of Nevada. Accordingly, the CRCN endorses the SNWA's Groundwater Development Project.

If you have any questions about these comments, or would like more detailed information regarding the efforts of CRCN on Colorado River resources and agreements, please contact me at 702-486-2670.

Sincerely,

  
Jayne Harkins, P.E.  
Executive Director

JH/MP/ja

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STATE ENGINEER  
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