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**COLORADO RIVER COMMISSION  
OF NEVADA**

September 11, 2012

REC'D - BLM - NSO  
9:00 AM SEP 14 2012

Bureau of Land Management  
Groundwater Projects Office  
P.O. Box 12000  
Reno, NV 89502

**SUBJECT:** Final Environmental Impact Statement (FEIS) for the Clark, Lincoln, and White Pine Counties Groundwater Development Project.

The Colorado River Commission of Nevada (CRCN) respectfully submits these comments on the above-referenced document. The CRCN previously submitted comments on the Draft Environmental Impact Statement. The following comments reiterate and update the CRCN's previously submitted comments to support the overall need for the project, and clarify portions of the discussion in Chapter 1.6.2 of the FEIS, and Section 2.2 of the Executive Summary.

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 genesis of this entire discussion is the reality 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 annually is allotted 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 -

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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.

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 FEIS, Southern Nevada is nearly completely dependent on its Colorado River share, as this volume supplies approximately 90% of Southern Nevada's 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 10 of the past 13 years. Though 2011 was an above average inflow year and allowed Lakes Powell and Mead to recover slightly, the prolonged drought continues; water year 2012, which ends on September 30, 2012, is estimated to be at a meager 48 percent of average.

Lower lake elevations result 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 a minimum of 13,000 acre-feet when the level of Lake Mead drops below surface elevation 1075 feet.<sup>3</sup> The second threat is Nevada's ability to withdraw water through current intakes which are at risk if the drought persists and Lake Mead's water level continues to drop. Though the Southern Nevada Water Authority (SNWA) is investing \$800,000,000 to tunnel and install a lower intake, a continuing drought will eventually result in Southern Nevada not having an adequate supply from the Colorado River.

Given Nevada's dramatically smaller apportionment of Colorado River water relative to the other Colorado River Basin States, many 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 immediate 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.

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<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).

<sup>3</sup> The surface elevation at Lake Mead dropped 132 feet in the ten years between 2000 and 2010. In November 2010, Lake Mead reached a low of 1082 feet, only 7 feet above the 1075 feet shortage trigger elevation. While an exceptional 2011 water year allowed Lake Mead to recover from the brink of a declared shortage, the level experienced less than two years ago demonstrates just how fragile Southern Nevada's water supply is.

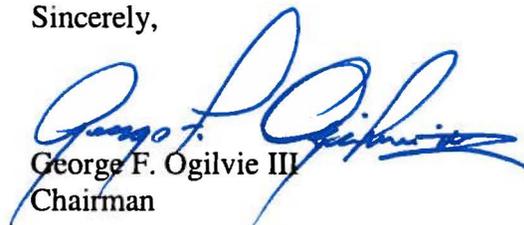
In this regard, the CRCN and the SNWA have actively pursued cooperative arrangements among the seven Basin States for additional Colorado River supply. This work has resulted in innovative solutions to permit and encourage water conservation and augmentation such as water banking agreements with Arizona and California, 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 that 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 Southern Nevada to diversify its water supply, thereby reducing the risks associated with complete reliance on the Colorado River, while maintaining Nevada's commitment as a partner with the other Basin States in wisely managing the System in the face of scarcity. 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 SNWA's Groundwater Development Project is 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, preserving the option for this alternative water supply for Southern Nevada.

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 Ms. Jayne Harkins, Executive Director, at 702-486-2670.

Sincerely,



George F. Ogilvie III  
Chairman