

**MINUTES OF THE  
JOINT SUBCOMMITTEE ON NATURAL RESOURCES/TRANSPORTATION  
OF THE SENATE COMMITTEE ON FINANCE  
AND THE ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-sixth Session  
March 15, 2011**

The Joint Subcommittee on Natural Resources/Transportation of the Senate Committee on Finance and the Assembly Committee on Ways and Means was called to order by Chair Dean A. Rhoads at 8:07 a.m. on Tuesday, March 15, 2011, in Room 3137 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**SENATE SUBCOMMITTEE MEMBERS PRESENT:**

Senator Dean A. Rhoads, Chair  
Senator David R. Parks  
Senator Sheila Leslie

**ASSEMBLY SUBCOMMITTEE MEMBERS PRESENT:**

Assemblyman Joseph M. Hogan, Chair  
Assemblywoman Maggie Carlton, Vice Chair  
Assemblyman David P. Bobzien  
Assemblyman Kelvin D. Atkinson  
Assemblyman Pete Goicoechea  
Assemblyman John Hambrick

**STAFF MEMBERS PRESENT:**

Rick Combs, Assembly Fiscal Analyst  
Scott Edwards, Program Analyst  
Rex Goodman, Principal Deputy Fiscal Analyst  
Mark Krmpotic, Senate Fiscal Analyst  
Wayne Thorley, Program Analyst  
Julie Waller, Program Analyst  
Patricia O'Flinn, Committee Secretary

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**OTHERS PRESENT:**

George M. Caan, Executive Director, Colorado River Commission of Nevada  
Douglas N. Beatty, Chief, Finance and Administration, Colorado River  
Commission of Nevada  
Joanne Marchetta, Executive Director, Tahoe Regional Planning Agency  
Stephanie Day, Deputy Director, Budget Division, Department of Administration  
Kevin Prior, Controller, Tahoe Regional Planning Agency  
Carla Watson, Budget Analyst, Budget Division, Department of Administration  
Jim Brockett, Support Services Manager, Tahoe Regional Planning Agency  
Jim Rodriguez, Budget Analyst, Budget Division, Department of Administration  
Susan G. Martinovich, P.E., Director, Nevada Department of Transportation  
Robert D. Chisel, Assistant Director, Administration, Nevada Department of  
Transportation  
Bruce Grego

**CHAIR RHOADS:**

We will start the hearing with testimony from the Colorado River Commission.

GEORGE M. CAAN (Executive Director, Colorado River Commission of Nevada):  
I have a short PowerPoint presentation covering some of the activities of the  
Colorado River Commission (CRC) ([Exhibit C](#)) and I can then answer questions  
the Subcommittee may have regarding our budget.

The CRC is a State agency with a seven-member board of directors. Four of the  
members are appointed by the Governor and three are appointed from the board  
of directors of the Southern Nevada Water Authority (SNWA). *Nevada Revised  
Statutes* 538.041 to 538.251 provide the basis for CRC's administrative, water  
and power functions. We represent the State of Nevada on issues related to  
water and power allocations from the Colorado River system, as well as  
environmental issues. We have a strong partnership with SNWA, both from a  
governing point of view and with respect to negotiations with the other states  
involved in the Colorado River Commission compact. The CRC receives no State  
General Funds. All funding for CRC comes from surcharges to our hydropower  
customers or charges to SNWA for activities related to water functions within  
the agency.

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Page four of [Exhibit C](#) is a map of the Colorado River Basin. The Colorado River system runs through seven states and the country of Mexico. It is divided into an upper and a lower basin. The upper basin is comprised of the states of Wyoming, Utah, New Mexico and Colorado. The lower basin includes the states of California, Arizona and Nevada. The Colorado River compact delineates the allocation of water in the system. In the lower basin 7.5 million acre-feet (maf) have been allocated for division among the three states: 4.4 maf for California, 2.8 maf for Arizona and 0.3 maf for Nevada. There is also a treaty with Mexico dating from 1944 that allocates 1.5 maf to Mexico, with an additional 200,000 acre-feet during years of surplus.

The CRC has been involved in a number of water-related activities in addition to the interstate negotiations which is an ongoing activity. We have published a number of books that have been provided to the Legislature in previous sessions. The CRC also produces conferences and workshops related to issues such as low lake levels and their impacts on water and power.

At each monthly Commission meeting, we present a forecast of projected lake levels for Lake Mead that is produced by the Bureau of Reclamation. The most current forecast, from February 2011, is on page 7 of [Exhibit C](#). I am pleased to point out the water level is rising. We are expecting a revision of water projections in April. Once we receive that revision, we hope that equalization will occur. Equalization is a program put together in 2007 which provides that during certain times when hydrology and snow pack increase, the levels of Lake Mead and Lake Powell could be equalized. If this occurs, the level of Lake Mead will be moved to a target of 1105 acre feet, which is about 20 feet greater than it is today. The storage conditions of the system as of March 7, 2011 are listed on page 8 of [Exhibit C](#). The capacity of the total system storage is at 55 percent. The two largest reservoirs are Lake Powell and Lake Mead. While that seems low, it is an improvement over recent years. We have had above average snow pack which is pushing the trend higher.

One of the major functions of CRC for the State of Nevada is the receipt of all the hydropower allocated to the State from Hoover, Parker, Davis and Glen Canyon Dams. Nevada receives approximately 25 percent of this power which we then provide under long-term contracts to wholesale and retail customers in southern Nevada. We serve municipalities such as Boulder City,

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public power districts like Overton and Lincoln, and the Valley Electric Association in Pahrump. We also serve two retail customers: SNWA for the loads required to pump water from Lake Mead to the Las Vegas Valley, and Basic Management Industries in Henderson through a hydropower contract which has been grandfathered since the war effort because hydropower is a major component of their ability to produce war materiel. The CRC also provides the largest amount of energy from Hoover Dam to NV Energy; they get approximately 50 percent of the Hoover power allocated to Nevada. But for their portfolio, it only accounts for about 3 percent of their total load because NV Energy has such a large load in southern Nevada.

One of the functions CRC has assumed in the last decade is providing supplemental energy to our hydropower resources for our customers. Our largest customer for retail purchases of electricity is SNWA. The CRC provides the supplemental electricity with an energy services group that is collocated with SNWA at the Molasky Corporate Center. The CRC has a full risk-management protocol and regime to ensure we provide both affordable and reliable electricity supplies to them. We are involved in meeting SNWA renewable energy goals by dispatching the solar energy they have obtained as well as some micro-hydropower from their pumping facilities. Dispatched means it is put onto the grid for consumption.

ASSEMBLYMAN GOICOECHEA:

What rate is charged for the supplemental energy?

MR. CAAN:

There are two rates. One is the rate they are charged for the hydropower. This is a low-cost rate of about two to three cents. The other rate will vary from six to eight cents. It is a market-based rate. The power CRC purchases for SNWA is on the market; it is no different than power bought for any utility at that market. We buy for SNWA in five-year blocks, so we try to get a good deal for a five-year period. Only the hydropower comes at a reduced cost.

ASSEMBLYMAN GOICOECHEA:

Your graph indicates you get power from Glen Canyon Dam. Do you actually get 25 percent of the power from that facility?

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MR. CAAN:

We receive only about 5 percent of the power from Glen Canyon.

Over the last decade, CRC has built a power delivery system to southern Nevada. We built it to provide electricity to SNWA for their pumping loads and to provide power for Basic Management Industries. We are the fourth-largest utility provider in the State of Nevada. The CRC owns \$150 million of assets as listed on page 13 of [Exhibit C](#). We employ a full-time operation and maintenance crew to manage these facilities.

In 2001, the Legislature passed a bill that provided CRC could serve the water and wastewater loads of the SNWA member agencies. We can provide power for the City of Las Vegas water reclamation facilities, but not for streetlights, city buildings or homes.

There are several environmental programs with which CRC is involved. Part of our responsibility is to ensure we are in compliance with the Endangered Species Act of 1973 (ESA). Because southern Nevada relies on Lake Mead and the Colorado River for 90 percent of their water supply, CRC decided we could not wait each year to determine what kinds of endangered species issues might impact access to water supplies. The Lower Colorado River Multi-Species Conservation Program (MSCP) is a 50-year effort to restore habitat and improve fisheries. The MSCP is essentially an insurance policy. The lower basin states share 50 percent of the approximate \$626 million cost of the program with the federal government. The Glen Canyon adaptive management program focuses on how best to operate Glen Canyon Dam to protect the Grand Canyon and its resources. The CRC is also involved with the salinity control program which provides for reduction of salinity in the Colorado River to support treaty requirements with Mexico.

ASSEMBLYWOMAN CARLTON:

What types of programs does CRC use to control the salinity of the River?

MR. CAAN:

Many of the salinity reduction programs deal with on-farm conservation. We try to reduce the salt before it gets into the River System. We attempt to do that as the River moves from the upper parts of the Rocky Mountains through to

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Mexico. Conservation, recycling and improved efficiency are all elements of the program. The dilution of water due to low lake levels creates water quality issues we deal with directly in Lake Mead, but the salinity control program has successfully insured that the reduction in salts in the River System is not affected by the lake levels.

The CRC is involved in litigation regarding environmental issues. An outline of a currently active case, *Grand Canyon Trust v. Bureau of Reclamation*, is on page 16 of [Exhibit C](#). The federal government has been sued for a variety of compliance issues related to the National Environmental Protection Act of 1969 and ESA in the operation of Glen Canyon Dam. The states and the federal government have won on all counts. It has been a three-year process that is finally nearing completion.

Some of the current issues facing CRC include the drought, the Hoover Power Allocation Act of 2011, hydropower as a renewable resource and rates. We are in the midst of an 11-year drought. We have had a reprieve this winter, but we do not know if this is the beginning of a great snowpack or an aberrant year. Therefore, we continue to plan as if the drought will continue; we support conservation and efficient water management. The Hoover power contracts expire in 2017. Legislation is being introduced in the U.S. Congress to extend the existing contracts for lower basin contractors for 50 years. Part of the contract extension would provide 5 percent of current receipts into a pool for new applicants for Hoover power. There have been challenges to the definition of hydropower as a renewable resource. Finally, the Federal Debt Commission has recommended raising rates on our hydropower contracts as a way to generate revenue. We are actively opposing this recommendation. The CRC pays cost-based rates for Hoover Dam power. In return, we are responsible for the costs of the maintenance of the structure and water control features and flood control features. We do not want that deal to change.

ASSEMBLYMAN BOBZIEN:

What happens if the Act is not reauthorized?

MR. CAAN:

We have worked hard over the last two years to get a bipartisan bill through Congress. There is no one in Congress who opposes the bill. It was not passed

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in 2010 because time ran out. Hoover Dam is unique. The original allocation of power was made by Congress in the 1930s. In the 1970s, the Western Area Power Administration was formed as part of the Department of Energy Reorganization Act. They assumed many of the responsibilities of allocating hydropower from federal dams. Western has been the entity allocating power from all the other dams on river systems within the western United States. If the Hoover Power Allocation Act is not passed, responsibility for allocating this power would default to Western. They have already begun planning the administrative and regulatory process, but have not implemented it because of the pending legislation. However, not everyone agrees that Western has the authority to assume this responsibility because the original allocation was by Congress.

ASSEMBLYMAN GOICOECHEA:

Is Hoover Dam the only hydropower source that is not allocated by Western?

MR. CAAN:

The Parker and Davis Dam contracts were renewed in 2008 for 20 years. The Glen Canyon Dam contract was renewed in 2004. The original Hoover Dam legislation allocated the hydropower to the states. There are a number of levels of support for that allocation.

ASSEMBLYMAN GOICOECHEA:

I thought Nevada's share of the Hoover Dam allocation was 17 percent. Is it higher than that?

MR. CAAN:

In 1987, during the first reallocation of Hoover hydropower, CRC invested in upgrading the generators to upgrade capacity. In exchange, additional capacity was allocated to Nevada.

ASSEMBLYMAN GOICOECHEA:

Was the original allocation 17 percent?

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MR. CAAN:

When Hoover Dam was first constructed in the 1930s, Nevada was not developed enough to use the hydropower. As that changed, the allocation became about 17 percent.

ASSEMBLYMAN HOGAN:

There appears to be a substantial reduction in the level projected for reserves in CRC's budgets. Will the recommended reserves provide sufficient cash flow to maintain agency operations? Are the projected revenues of about \$2.05 million each year of the 2011-2013 biennium reasonable, given the actual receipts of the water administrative charge revenue have consistently been less than budgeted amounts?

DOUGLAS N. BEATTY (Chief, Finance and Administration, Colorado River Commission of Nevada):

Budget account (B/A) 296-4490 has three revenue streams. The two largest are the water administrative charge and reimbursements from other budget accounts related to energy services. All CRC personnel costs are allocated to B/A 296-4490.

### INFRASTRUCTURE

CRC – Colorado River Commission — Budget Page COLORADO RIVER COMM-1  
(Volume III)

Budget Account 296-4490

Some CRC personnel are collocated with SNWA and their costs are reimbursed monthly from B/A 502-4501. The reserves are kept low because CRC can bill every month. The water administrative charge is billed quarterly. The reserves are assessed and SNWA is billed to keep the reserve levels at an adequate level.

CRC – Power Delivery System — Budget Page COLORADO RIVER COMM-9  
(Volume III)

Budget Account 502-4501



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ASSEMBLYMAN HOGAN:

Are you concerned that the actual revenue flow tends to be less than the budgeted revenue flow?

MR. BEATTY:

No, we are not. The authorization for revenue through the administrative charge includes costs related to contracts for water quality and water quantity enhancement. Generally, we do not use those contractual costs, so we do not bill for them. When I invoice, I review what is needed to pay the bills and keep the reserves. Even though there may be additional authorization, if CRC does not need the funds, we do not invoice for them.

CHAIR RHOADS:

Will the elimination of three positions hurt the efficiency of CRC?

MR. CAAN:

For a number of years, CRC has attempted to look forward two years to predict personnel needs. We have decided that positions that have been vacant for a number of years can be eliminated. There is no reason financially to do this and it will not have an impact on State revenues. We do not believe we will need these positions. If we need them, we will request them from the Interim Finance Committee.

CHAIR RHOADS:

Explain the process CRC uses to determine the need for consulting contracts.

MR. CAAN:

The consulting contracts have been scrutinized quite a bit lately. The CRC is a small agency; we have about 35 staff members. We use consultants and contractors as we need them to fill specialized needs. We have a contractor who does biological work on environmental issues because we do not need a full-time biologist on staff. When we identify a need for a consultant such as a fish biologist, we try to choose the best firm or individual who meets the needs of CRC and the State of Nevada. If there is a fully competitive market and the need is fairly general, such as for communication control systems, CRC can put it out to bid. However, many of the control systems we use in our substations

are made by one specific manufacturer. We then find out who is well-qualified to work with these systems and then we ensure the costs are reasonable.

SENATOR LESLIE:

A concern was raised by the audit because there were State employees who left State service and returned to do the same work at a much higher rate.

MR. CAAN:

The report in the audit regarding one of our consulting contracts was incorrect. The Chief of the Water Department was involved in negotiations with the other basin states on the development of the equalization plan I referred to earlier. He left State service in the middle of these negotiations, but I needed his expertise. He was hired as a consultant. His contract stipulated that he would be paid no more as a consultant than he had earned as an employee. There was a provision in the contract that if his work level dropped below a certain level, he would be paid a different, higher, hourly rate. That provision was never invoked.

SENATOR LESLIE:

I understand that. The issue is whether staff are being cross-trained in order to minimize the need to contract with former employees. All State agencies are being put on notice there will be more transparency requirements for consulting contracts, especially those with former State employees.

CHAIR RHOADS:

The CRC has only one performance indicator, the acre-feet of Colorado River water consumed. Could other performance measures be adopted?

MR. BEATTY:

We have worked with staff in a number of previous sessions to try to create additional quantitative performance indicators. The nature of our work does not lead to easily definable quantitative indicators. We have submitted a number of suggestions in the past, but they do not meet the State's guidelines and we have not been authorized to use them. We would be willing to work with staff again to determine other performance indicators.

CHAIR RHOADS:

What is the trend of the consumption of the Colorado River water?

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MR. BEATTY:

It is stable. The goal is to use every acre-foot allocated to us. We either consume it, or we use it to recharge the aquifers.

MR. CAAN:

The CRC has many internal performance indicators we use to manage our operations. For example: getting invoices out, ensuring they are accurate and ensuring power is allocated properly. Translating these internal indicators to ones that meet the budget criteria is the challenge.

CHAIR RHOADS:

We will now hear from the Tahoe Regional Planning Agency (TRPA) regarding B/A 101-4204.

## CONSERVATION AND NATURAL RESOURCES

Tahoe Regional Planning Agency — Budget Page DCNR-171 (Volume III)  
Budget Account 101-4204

JOANNE MARCHETTA (Executive Director, Tahoe Regional Planning Agency):

The TRPA has a unique role and structure. It was created 40 years ago by a bistate compact agreement between the two states that touch the boundary of Lake Tahoe: Nevada and California. The TRPA is a regional land use planning agency whose mission is to lead the effort to preserve, restore and enhance the unique natural and human environment of the Lake Tahoe region. The TRPA adopted a new strategic plan last year. Operational efficiency, streamlining, improved community engagement, measurable performance standards and accountability for results are a required new way of doing business. Agency staff has dropped from near 90 a few years ago to approximately 70 today. This drop in staffing has been a direct result of repeated budget cuts as well as other economic influences. There have been two rounds of agency reorganization. The first was in June 2009; the second was two weeks ago when I was forced to lay off another eight employees and reclassify many more in anticipation of serious budget shortfalls. Even with the significant cuts over the last two years, I still have not fully closed the anticipated budget gap for fiscal year 2012.

The TRPA now implements its mission and responsibilities primarily through three reorganized programmatic departments, as well as some staff teams. The reorganized planning department reviews and permits all development related applications. This is also the group that does the needed updates to our regional plan to achieve the compacts requirements. The implementation department oversees and coordinates funding for and delivery of environmental restoration projects that are necessary to reverse decades of environmental decline. The measuring and recording department is responsible for measuring, monitoring and reporting on accomplishments toward attainment of the standards set by the compact. There are a variety of support services: information technology, building services, legal, human resources, finance and public affairs.

The TRPA receives half of its total financial support from the states of California and Nevada. The other half of our revenue is derived from filing fee applications, state and federal grant sources, local appropriations, administration and overhead fees, and a small amount of interest revenue. There is widespread recognition of critical issues that face the Tahoe region that have enabled most of our grant programs to remain reasonably intact. Examples include aquatic invasive species prevention and control programs, storm water management programs and transportation responsibilities. While our grant funds represent about half of TRPA's overall budget, they cannot be used for general agency activities. Many of these funds are passed through directly to our implementing partner agencies.

The TRPA is not technically a Nevada State agency. The compact dictates that TRPA's request for appropriations must be on a two-thirds California, one-third Nevada basis. State appropriations are no longer in proportion to the compact's share formula. The California Governor's proposed budget for the first year of the current Nevada biennium continues to provide full baseline funding of California's share with no funding reductions. California's baseline appropriation for TRPA this fiscal year is about \$4.12 million. California funds TRPA through special fund sources, not their general fund. We are cautiously optimistic the baseline level of funding from California will not change. Should the California appropriation remain intact, Nevada would continue to fall further behind in matching California's two-thirds share. Based on the Nevada Governor's Recommended Budget for the upcoming biennium, Nevada would be

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approximately \$775,000 short of its one-third portion in each year of the biennium.

ASSEMBLYMAN BOBZIEN:

The current Recommended Budget departs from the historic one-third appropriation relative to that of California. Nevada must be involved in regional planning for Lake Tahoe and TRPA. Does the reduction in funding jeopardize the State of Nevada's position?

STEPHANIE DAY (Deputy Director, Budget Division, Department of Administration):

California has a dedicated funding source for TRPA. Nevada funds TRPA from the General Fund and some Department of Motor Vehicles (DMV) Pollution Control Fund money. Due to the competing priorities for these revenue sources, we had to make some difficult decisions this session.

ASSEMBLYMAN BOBZIEN:

Have there been any conversations with Nevada's Congressional Delegation in terms of our understood obligations under the compact?

Ms. DAY:

I am not aware of any such conversations.

CHAIR RHOADS:

Will this violate the interstate pact?

Ms. DAY:

I do not know.

ASSEMBLYMAN BOBZIEN:

We need more information about this. We need to know if there has been any assessment of the consequences.

CHAIR RHOADS:

When will we know about California's contribution?

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MS. MARCHETTA:

Recently, the California legislature requested TRPA's budget be taken off their consent calendar so they could examine it. It will probably be April or May before we know.

ASSEMBLYMAN HOGAN:

Do you have reason to believe California might be considering a comparable reduction?

MS. MARCHETTA:

Informal conversations with staff in California indicate there is no intent to reduce the budget. They want a better understanding of how we are spending our funds.

ASSEMBLYMAN GOICOECHEA:

What is California's dedicated funding source?

KEVIN PRIOR (Controller, Tahoe Regional Planning Agency):

The dedicated funding source is an environmental license plate fund.

ASSEMBLYMAN GOICOECHEA:

Does it generate that kind of money?

MS. MARCHETTA:

The total share in California is about \$4.12 million. Given the size of the population and the number of cars on the road in California, it does generate that amount of money.

ASSEMBLYMAN GOICOECHEA:

Is there just a specialty plate, or is it assessed on all plates in California?

MS. MARCHETTA:

It is a fee on the specialty plate that has to be elected by the driver who knows the fee will support restoration programs in California. It is not a fee on all regular license plates.

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ASSEMBLYMAN GOICOECHEA:

Is that fee shared in regions besides the Tahoe basin?

MS. MARCHETTA:

There are other varieties of vanity plate, but fees paid toward the Tahoe vanity plate come directly to Tahoe.

ASSEMBLYWOMAN CARLTON:

The State of Nevada has a specialty license plate that generates funds. Do those funds go to the special revenues for TRPA?

MS. DAY:

Funds from Nevada's Lake Tahoe specialty license plate do not go to TRPA. I believe those funds go to the Division of State Lands, but I would have to check.

MS. MARCHETTA:

The TRPA cannot use other sources of our revenue to make up the shortfalls. Our permit application fees are down significantly from our budgeted estimates this year. Our interest and investment earnings are down and our administrative overhead is down because of changes in the shore zone program revenues due to a court decision invalidating that program. We anticipate revenues will continue to decline throughout the upcoming biennium. The allocation from the Nevada General Fund to TRPA was reduced by 7.5 percent in the last biennium to a new baseline of about \$3.2 million. The current Recommended Budget further cuts allocations to TRPA by 20.1 percent, or approximately \$647,000.

Embedded in the new baseline of approximately \$2.57 million are two decision units of note. The first is decision unit E-350, continued DMV funding for air quality program support.

E-350 Environmental Policies and Programs — Page DCNR-172

CHAIR RHOADS:

Does DMV believe the funding will continue?

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MS. MARCHETTA:

This is part of the Governor's Budget.

CARLA WATSON (Budget Analyst, Budget Division, Department of Administration):

During the budget process, we determined we could continue this level of transfer from the pollution control budget.

MS. DAY:

The compact requires TRPA to request the one-third, two-third shares from the states, but it does not require the states to fund at that level.

ASSEMBLYMAN BOBZIEN:

Is this the first time Nevada has funded TRPA below the one-third level?

MS. DAY:

In the past, Nevada has made one-shot allocations for things like vehicle replacements. Salary increases from one state have not always been matched by the other state.

ASSEMBLYMAN BOBZIEN:

This is the first time as part of the general appropriations process Nevada has dropped below the one-third share. I would be more comfortable if there were some communication with our Congressional Delegation about the TRPA funding.

MS. DAY:

The Agency would need to verify this, but I understand that when the license plate revenue first came in, California was not able to meet the full two-thirds.

WAYNE THORLEY (Program Analyst, Fiscal Analysis Division, Legislative Counsel Bureau):

The 2009 Legislature approved TRPA funding from Nevada at 30 percent rather than the historic one-third level.



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MS. MARCHETTA:

Another decision unit of note is E-850, which is a legal services enhancement of \$110,000 in recognition of a critically important and growing need.

#### E-850 Special Projects — Page DCNR-175

The enhancement is part of the approximate \$2.75 million budget for the upcoming biennium, which is 20 percent less than the current biennium. I recognize, in these trying budget times, that asking for an enhancement to pay for legal fees may seem offensive when compared to public health and safety concerns. Please understand the larger context. The TRPA is a wholly independent agency rather than a State agency so we cannot use the Nevada Attorney General's Office for legal services or representation in litigation. The TRPA is entering a phase of increasing pressure of litigation to resolve important questions about the direction of the region. We are expecting our legal costs in defensive litigation alone will be in excess of \$1 million over the next couple of years.

We are in litigation on the Shorezone Ordinance changes regarding the balance of public and private rights along the lakefront in Tahoe. After a sensitive political compromise between the two states, the environmental stakeholders wanted more, so we are appealing that challenge in federal court. We are also defending important claims of challenge to the implementation of the recommendations of the bistate fire commission after the catastrophic Angora Fire. The question is if we should be allowed to streamline our process for putting fuel treatments on the ground in Tahoe. Also on the horizon is the need to defend the likely litigation that will challenge the update to the region's comprehensive plan. Without this update we are not going to be able to, legally or in practice, improve our built environment in Tahoe to meet the economic needs of the region, or to implement the water-quality strategies that 10 years of scientific research indicate are needed to reverse the serious declines we have seen over the last 40 years. The issues in Tahoe are critical. The lesson from the 1980s is that successful litigation can bring the roughly \$5 billion economy of the region to a halt.

The TRPA reorganization has already addressed many of the cuts encompassed in the elimination of two positions in decision units E-691 and E-692 and the reinstatement of furlough days in E-690.

E-690 Budget Reductions — Page DCNR-173

E-691 Budget Reductions — Page DCNR-174

E-692 Budget Reductions — Page DCNR-174

These actions were taken because other revenue shortfalls made cost cutting essential and urgent. The TRPA needed to close an impending budget gap of about \$1.3 million on a total TRPA general fund budget of approximately \$7.7 million. Since this budget submission was prepared late last year, conditions have steadily worsened. We acted proactively a few weeks ago to try to close the budget gap, but we have yet to fully do so. If there is any way to leverage any funds during this Legislative Session, we may be able to avoid additional staffing and operational cuts. The budget crisis at TRPA is rendering us almost functionally unable to achieve our legislatively mandated mission.

Since the mid-1990s, restoration projects have been an essential part of our mission. We have stabilized the rapid declines in clarity over the last 40 years. The depth to which you can see into the Lake is a signature indicator of the health of the Tahoe ecosystem. There are 50 restoration projects on the docket, but TRPA no longer has the staffing to move these projects to approval and implementation. Therefore, the pace of critical restoration work needed to maintain the positive environmental trends we have been achieving has been slowed.

Another strategic concern is the ability to build a measurement and recording department. This function is required by the compact, but it has been underfunded and underfocused. We need this for accountability. We should not ask for money unless we are able to monitor and report what we are actually accomplishing with our funds. We have heard from our federal and California partners that this is an area of great importance to them. The California legislature is examining our budget and asking questions about how we monitor and how we report. Our goal is to be able to give the public and

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elected officials more information about the results of environmental investments and trends.

Until recently, we have chosen to balance our budget with the use of furlough days and some operational cuts. We have found this approach to be detrimental to public service and community engagement. Instead, I recently opted to reorganize and downsize the Agency. The final decision regarding Nevada's allocation to the TRPA budget will determine if we need to reinstate furlough days in addition to the layoffs and reorganization already undertaken. Closing the TRPA offices for furloughs affects the economic vitality of Lake Tahoe because contractors and other businesses rely on timely permit processing.

The new strategic plan for TRPA is based on four pillars: operational efficiency, streamlined processes, improved customer service and accelerated environmental gain. We are in the midst of implementing that strategic plan to bring the highest environmental gain for the dollars spent supporting the long-term strategic effectiveness of TRPA. We appreciate the efforts in the Governor's Office to keep our budget as whole as possible and we recognize the hard economic times the State is facing. In recognition of the Agency's highest priorities on our regional plan update, protecting Tahoe from the threats of catastrophic wildfire, invasive species and moving the Tahoe basin forward, I hope there will be opportunities to find additional funding sources in Nevada. We hope to work together to close the growing gap in the one-third, two-third funding imbalance and to support our growing legal services needs so we can defend the future of Tahoe in the courts when needed.

ASSEMBLYMAN HOGAN:

You have had a dedicated legal staff. Could you shift from retaining outside counsel to more dependence on internal resources?

MS. MARCHETTA:

Once each decade in Tahoe, we reach a signature legal landmark event. Three decades ago, it was the question of the defensibility of our regional plan. Two decades ago, it was important questions under the Takings Clause of the Fifth Amendment to the U.S. Constitution as to whether the actions of a regional planning agency would be considered takings. We are now facing the third zenith event in Tahoe related to the interpretation of our compact. Due to

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complex questions of legal interpretation, the youth and inexperience of young lawyers may not well serve the answers to those questions. We are looking to achieve a balance between in-house services and more seasoned outside counsel. In the last reorganization, we did not make changes to our legal staffing. We are continuing to discuss how best to achieve this balance, so there may still be changes.

ASSEMBLYWOMAN CARLTON:

What is encapsulated in the special revenues that make up 27 percent of total revenues as shown on page 3 of the handout titled, "TRPA Budget Highlights FY 2012-13" ([Exhibit D](#))?

MR. PRIOR:

The special revenue funds are grant funds.

CHAIR RHOADS:

The TRPA eliminated three positions in addition to the two positions recommended for elimination in decision units E-691 and E-692. Do these additional eliminations affect your budget recommendations?

JIM BROCKETT (Support Services Manager, Tahoe Regional Planning Agency):  
The three additional staffing eliminations do not affect our budget.

ASSEMBLYMAN HOGAN:

If you restore the furloughs, will it be on an Agency-wide basis?

MS. MARCHETTA:

The reorganization of TRPA has implemented some of these actions identified as consequences in the budget. Due to declines in other revenue sources, these changes do not fully close the budget gap of approximately \$1.3 million. If furloughs must be implemented as a further strategy to close the gap, it would most likely be across the board.

MR. THORLEY:

Is it the intent of the *Executive Budget* to implement both the six furlough days and the 5 percent salary reduction, or does the Agency have an option which one will be implemented?

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JIM RODRIGUEZ (Budget Analyst, Budget Division, Department of Administration):  
The Agency was given a dollar reduction to meet. It was up to the Agency to create a plan to meet that reduction. The Agency chose to implement a furlough and a 5 percent reduction.

ASSEMBLYWOMAN CARLTON:  
Why did TRPA choose both of these options?

MS. MARCHETTA:  
When we were planning our strategy for addressing needed cuts, we did not have all the information we now have regarding the significant reductions in our filing fee revenue and the effect of the court's invalidation of the Shorezone Ordinance. It is essential under our strategic plan to maintain the effectiveness of our agency. More furlough days and reductions in salary forced TRPA to refocus its activities by streamlining and creating efficiencies. I opted for a strategic approach in addition to cost conservation.

ASSEMBLYWOMAN CARLTON:  
Has the 5 percent pay cut gone into effect?

MS. MARCHETTA:  
No, we did not opt for the 5 percent pay cut. We found cost efficiencies in other ways.

ASSEMBLYWOMAN CARLTON:  
Have you had furloughs in the past?

MS. MARCHETTA:  
We have had furloughs in the past. Through layoffs and reorganization, we found approximately \$700,000 in savings on a budget gap of about \$1.3 million.

ASSEMBLYWOMAN CARLTON:  
When will you initiate the furloughs and 5 percent salary cut?

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MS. MARCHETTA:

If we have to initiate further cuts, it will be at the start of the fiscal year, July 1, 2011.

CHAIR RHOADS:

We will now hear the Transportation Administration budget, B/A 201-4660.

## TRANSPORTATION

NDOT – Transportation Administration — Budget Page NDOT-2 (Volume III)  
Budget Account 201-4660

SUSAN G. MARTINOVICH, P.E. (Director, Nevada Department of Transportation):

I will be referring to the presentation, the “Nevada Department of Transportation (NDOT) Budget Overview” ([Exhibit E](#)). The NDOT is responsible for the oversight of 5,400 miles of highway and over 1,000 bridges that comprise the State system that carries over 60 percent of the total vehicle miles traveled in Nevada. The NDOT is also responsible for the oversight of many federal grant programs including programs for transit, rail, rural airports as well as bicycles and pedestrians. The NDOT receives its funding from the State Highway Fund as does the Department of Public Safety (DPS) and DMV. We work closely with those agencies, along with the Department of Administration, in monitoring the State Highway Fund.

Similar to other State agencies, NDOT has mission statements and goals. Our basic philosophy is to optimize our federal and State allocations to preserve our assets and provide a safe and reliable system for the users of our transportation system. The projected overall Highway Fund revenues and expenditures over the 2011-2013 biennium are approximately \$1.578 billion and \$1.716 billion respectively. When we prepare our budget, it is based on maintaining an ending balance to the Highway Fund of approximately \$100 million. This ending balance is predicated on having one month of operating costs and one and one-half months of contractor costs.

Page 5 of [Exhibit E](#) is a pictorial view of the components of the Highway Fund revenue. The three pie charts detail the receipts from the State, miscellaneous sources and federal aid. The federal aid is authorized through a multiyear

transportation bill, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) program. The current SAFETEA-LU bill expired in September 2009. Since that time, Congress has passed six continuing resolutions, the latest of which extended the funding to March 18, 2011. In addition to the funding bill, Congress must appropriate money each year. We have budgeted conservatively, assuming flat revenue levels based on past SAFETEA-LU allocations. However, federal funds must be spent to be received.

The American Recovery and Reinvestment Act of 2009 (ARRA) provided over \$201 million in funding to NDOT over the last two years. With that money, 71 projects were implemented; all Nevada counties benefited from the projects. To date, about \$142 million has been expended. The funds have been allocated, but some projects have been shut down due to winter weather or other delays. Page 7 of [Exhibit E](#) is a pictorial display of the Highway Fund allocations: NDOT receives approximately \$1.2 billion, DPS, DMV and bond repayment are the other primary categories of Highway Fund allocations. We are not seeking to issue more bonds during this Session.

Pages 8 and 9 of [Exhibit E](#) contain the organization chart and maintenance office and support personnel locations, respectively. The majority of NDOT personnel are in the three major Highway Districts: Reno, Elko and Las Vegas. We have four functional areas: administration, planning, engineering and operations. Crews are located statewide and range in size from three to ten people and can cover hundreds of miles as first responders, providing snow removal and a safe highway system. The NDOT has reduced overtime by flexing hours and days. We have implemented procedures to monitor overtime usage and keep it to a minimum. However, some factors are beyond our control. Winter weather makes its own schedule, and oversight of large construction projects requires flexibility working with contractors. Additionally, ARRA projects almost doubled our workload without an increase in staff.

The NDOT has performance indicators in each of the four functional areas previously mentioned: administration, planning, engineering and operations. Page 11 of [Exhibit E](#) details some of these. For further detail, refer to the "Nevada DOT 2010 Performance Management Report," ([Exhibit F](#), Original is on file in the Research Library). The NDOT is working to ensure our performance

indicators will match the national performance measures being considered in the federal transportation bill.

The Base Budget for NDOT is listed on page 12 of [Exhibit E](#). The largest expenditure is capital outlay, which is money spent on projects. General Maintenance projects are also included in the operating expenses. Page 13 of [Exhibit E](#) is a visual representation of the typical distribution of funding for projects in the State. For example, the larger portion of preservation projects such as maintenance of pavement is in the nonurban areas. The largest portion of capacity projects is where the largest population growth is, in the Las Vegas, Clark County area. There are other projects as well: bridge, safety, local lane-widening projects. The majority of the funding goes to Clark County; Washoe County receives approximately 19 percent and the rest of the State receives the remaining 20 percent of the funding.

Over five positions were eliminated and the budget was adjusted for the proposed 5 percent decrease in salaries.

The first decision unit for B/A 201-4660 is E-275, the Nevada Shared Radio System, to replace outdated equipment for communications needed statewide.

#### E-275 Best Use of Technology — Page NDOT-5

We also seek funding for the Commercial Vehicle Information Systems and Networks (CVISN) grant, in enhancement unit E-276. This is a federal grant accepted from the Federal Motor Carrier Safety Administration on behalf of NDOT, in partnership with DMV and DPS. This system not only provides information to truckers, it assists with inspections and various other projects related to commercial vehicles.

#### E-276 Best Use of Technology — Page NDOT-5

Enhancement unit E-586 requests funding to implement an electronic documentation system combining current technology and best practices to promote efficiency, reduce project costs and delays and lower costs to the State. Additionally, the estimated five-year gain on investment is projected to be about \$1.6 million.



E-586 Technology Invest, Reduce Duplication of Effort — Page NDOT-6

Enhancement unit E-595 is related to the permitting and tracking of overdimensional vehicles.

E-595 Technology Invest, Best Use of Technology — Page NDOT-7

Each year, NDOT replaces a portion of its licensed mobile and fleet equipment. The current request, in decision unit E-710, reflects a reduction of over 50 percent from previous budget years.

E-710 Equipment Replacement — Page NDOT-9

Funding for the purchase of new equipment for a variety of purposes including surveying, testing, and snow removal is requested in decision unit E-720.

E-720 New Equipment — Page NDOT-10

Maintenance of NDOT buildings and grounds across the State is requested in decision unit E-730.

E-730 Maintenance of Buildings and Grounds — Page NDOT-10

The NDOT is seeking construction of a new building in Carson City to accommodate staff who will be displaced from the Landmark Building on South Carson Street, as reflected in decision unit E-731. The Landmark Building will be torn down as part of the Carson Freeway extension. The NDOT is also currently leasing property across Carson City. The construction of a new building will be more cost-effective than continuing to pay approximately \$200,000 a year for the leases.

E-731 Maintenance of Buildings and Grounds — Page NDOT-10

Decision unit E-735 requests funding for the expenses associated with the maintenance of NDOT's two aircraft.

E-735 Airplane Maintenance — Page NDOT-11

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The NDOT replied to questions about the necessity of its maintaining aircraft that were raised at the Legislative Commission's Budget Subcommittee hearing on February 2, 2011, in a letter dated February 22, 2011 ([Exhibit G](#)). One of the aircraft flies daily between Reno and Las Vegas.

ASSEMBLYMAN GOICOECHEA:  
How often do you fly to Elko?

MS. MARTINOVICH:  
One of the benefits of maintaining our own planes is the ability to get to the remote areas of the State of Nevada. We do not have regular service to Elko, however. We did fly to Elko 20 times last year.

Enhancement unit E-901 is the consolidation of the bicycle safety programs run by DPS and NDOT. Both agencies had been sharing the funding received from the 50 cents fee from each driver's license issued in the State. Combining the programs will create a more efficient and effective program.

E-901 Transfer from DPS Bicycle Safety to NDOT — Page NDOT-11

ASSEMBLYMAN BOBZIEN:  
Does NDOT have a written policy about who uses their planes? Can contractors use the plane?

MS. MARTINOVICH:  
Yes, NDOT has a written policy. Use of the planes is primarily for NDOT staff and the NDOT Board of Directors. Personnel from other State agencies may fly if there is space available and they pay a comparable fee.

ASSEMBLYMAN BOBZIEN:  
Can contractors fly in NDOT planes?

MS. MARTINOVICH:  
Contractors working for NDOT may fly in the planes.

ASSEMBLYMAN BOBZIEN:  
Can you share that policy with the Subcommittee?

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MS. MARTINOVICH:

Yes, we will provide the policy to Staff.

The 2011-2013 biennium budget for NDOT is about \$1.2 billion. Because of the uncertainty of funding, it is below previous biennium budgets. The NDOT has emphasized efficiency, economy and safety in creating this budget. The goal is to put the money into projects on the ground.

CHAIR RHOADS:

What happens if the Highway Fund balance goes below \$100 million?

MS. MARTINOVICH:

We watch the Highway Fund balance closely. Every two weeks we get a report from which we make a cash flow projection that we track to actual expenditures. If the balance starts to get low, we would start delaying projects.

CHAIR RHOADS:

I was amazed at the number of ARRA projects funded in Nevada. Are there still funds to be used?

MS. MARTINOVICH:

All of the funds have been obligated. There is still about \$50 million to be expended for projects that are in various stages of construction. For example, the Meadowood Mall project in Washoe County is an ARRA project. Clark County decided to distribute its share of the ARRA money to its various political entities and many projects are still under construction.

CHAIR RHOADS:

Can you explain the effect of House Resolution (H.R.) 662?

MS. MARTINOVICH:

The SAFETEA-LU funding is extended through the end of September 2011 by H.R. 662. There has not been a multiyear comprehensive transportation bill since the last one expired in September 2009. President Obama has proposed a bill that would allocate approximately \$550 billion over six years. However, no funding source has been identified to support that allocation. President Obama, John L. Mica, Chair of the House Committee on Transportation and

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Infrastructure, and Barbara Boxer, Chair of the U.S. Senate Committee on Environment and Public Works have all indicated they want a new transportation bill by September.

ASSEMBLYMAN GOICOECHEA:

According to your presentation, the SAFETEA-LU appropriation is nearly 25 percent of your total budget. If it is not funded, what impact will it have on NDOT?

MS. MARTINOVICH:

It would have a tremendous impact. The funding is all related to projects. One of the aspects of a new, multiyear transportation bill is the criteria for funding. There are over 40 categories for allocation of federal funds. The NDOT supports a flexible bill that will allow the State to set its own funding priorities. The state of New York prioritizes preservation; they do not want capacity. Nevada and other western states are growing and need capacity to combat congestion.

CHAIR RHOADS:

Can you comment on the redirection of property tax and car rental proceeds in the *Executive Budget*?

MS. MARTINOVICH:

The Legislature established a revenue source to the Highway Fund with Assembly Bill No. 595 of the 74th Session. This bill provided that a portion of local property tax and car rental proceeds were diverted from the counties to the Highway Fund. The current NDOT budget reflects the redirection of this money to the General Fund. It will not affect our project delivery.

CHAIR RHOADS:

Why is spending approximately \$3.6 million over the 2011-2013 biennium for construction of a new building the best option? How did NDOT determine the projected cost of the new building?

MS. MARTINOVICH:

We must relocate staff. A building is being torn down. Leasing approximately 16,000 square feet of space would cost NDOT \$200,000 a year. Additionally,

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construction of a new building will allow us to consolidate staff from other locations which will facilitate communication and create efficiencies.

CHAIR RHOADS:

Is there a duplication of effort currently in the NDOT and DPS bicycle programs?

MS. MARTINOVICH:

The two programs had different duties, but there were some areas of administrative inefficiency. Combining the programs into one will eliminate these inefficiencies.

CHAIR RHOADS:

Do you receive over \$600,000 in federal funding for the overdimensional vehicle permitting system?

ROBERT D. CHISEL (Assistant Director, Administration, Nevada Department of Transportation):

The CVISN grant is being reviewed by the federal government. One component of the CVISN grant is an overdimensional permitting system. Our current system is over 9-years old and does not allow for 24-hour-a-day, 7-day-a-week application of permits from the trucking industry. Not every permit will be issued online and automatically, but a percentage will be.

ASSEMBLYMAN GOICOECHEA:

There is a bill being considered to ban triple-trailer vehicles. The fiscal note indicates nearly \$7 million would be lost from permit fees if they are banned. What impact will that have?

MR. CHISEL:

The longer combination vehicles are licensed through DMV. It would impact their ability to produce the permits. The NDOT deals with overweight and oversized vehicles like large cranes and mining equipment.

ASSEMBLYMAN GOICOECHEA:

Does NDOT receive any of the fees for the over-length vehicles?

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MR. CHISEL:

Any money going into the Highway Fund is good, but it is not a direct payment to NDOT.

CHAIR RHOADS:

Tell the Subcommittee more about the federal audit of CVISN.

MR. CHISEL:

The audit is nationwide; it is not directed to Nevada or any other state specifically. The federal government is trying to improve the efficiency of the trucking across the country. They will make recommendations based on the audit. We do not know what their actions will be, but the indications are the program will continue. If it does not continue, we will not have funding for these items in our budget and we will not proceed.

CHAIR RHOADS:

How will the electronic documentation program work?

MR. CHISEL:

The electronic documentation system proposed in this budget will automate the tracking of contractor payments and progress. Currently, the resident engineer crews that monitor the construction projects use what is called the "orange book." They note project quantities and status on site, then return to the office and transcribe the information into a system and then into a third system for payment to the contractors. The proposed system will replace the "orange book" with a device that would automatically be uploaded for contractor payments. This will improve efficiency and eliminate errors. Based on the efficiencies, we anticipate the system will pay for itself within four years.

CHAIR RHOADS:

Is there any public comment?

BRUCE GREGO:

I will read my prepared testimony ([Exhibit H](#)).

Ms. Marchetta testified TRPA is more embattled and needs a larger litigation fund. The reason for this is the lack of power sharing in the Tahoe Basin. There

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are competing views and competing groups, some people have power and others do not. Without an elected board, these fights will continue because there are people who are left out of the system.

Joanne Marchetta and her aides know who I am, but they chose to leave without hearing my comments. It is indicative of the fact they have ignored local government and we have no power to effect necessary compromise and change. When you consider funding this agency, consider changing the system to avoid conflicts.

CHAIR RHOADS:

Have you contacted your Legislators about changing the TRPA Board of Directors to elected positions?

MR. GREGO:

I have talked to a California state senator. It has not been effective. Because of environmental concerns and the fact Lake Tahoe is a treasure, my constitutional rights to an elected board are set aside to protect the Lake. I do not think these are mutually exclusive concepts. Because Carson City is closer than Sacramento, I thought expressing my concerns here might have an impact.

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CHAIR RHOADS:

As there is no further public comment, this meeting is adjourned at 10:27 a.m.

RESPECTFULLY SUBMITTED:

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Patricia O'Flinn,  
Committee Secretary

APPROVED BY:

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Senator Dean A. Rhoads, Chair

DATE: \_\_\_\_\_

---

Assemblyman Joseph M. Hogan, Chair

DATE: \_\_\_\_\_



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<b><u>EXHIBITS</u></b>			
<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	George M. Caan/Co River Comm.	PowerPoint Slides
	D	Joanne Marchetta, TRPA	Budget Highlights
	E	Susan Martinovich, NDOT	Budget Overview
	F	Susan Martinovich, NDOT	2010 Perf. Mgmt. Report
	G	Susan Martinovich, NDOT	2.22.11 Letter
	H	Bruce Grego	Testimony