

SILVER STATE ENERGY ASSOCIATION



COOPERATIVE AGREEMENT

AMONG THE

CITY OF BOULDER CITY
COLORADO RIVER COMMISSION OF NEVADA
LINCOLN COUNTY POWER DISTRICT NO. 1
OVERTON POWER DISTRICT NO. 5
SOUTHERN NEVADA WATER AUTHORITY

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1. PARTIES

THIS COOPERATIVE AGREEMENT is made and entered into by and among the following Public Agencies that are Parties hereto:

1.1 CITY OF BOULDER CITY (“Boulder City”);

1.2 COLORADO RIVER COMMISSION OF NEVADA (“CRC” or “Commission”);

1.3 LINCOLN COUNTY POWER DISTRICT NO. 1 (“Lincoln”);

1.4 OVERTON POWER DISTRICT NO. 5 (“Overton”); and

1.5 SOUTHERN NEVADA WATER AUTHORITY (“SNWA” or “Authority”).

2. EXPLANATORY RECITALS

2.1 The Parties to this Agreement are all Public Agencies authorized by law to engage in certain activities associated with the acquisition and disposition of Electric Power to meet their own needs and those of their customers.

2.2 The Parties share a common desire generally to plan, develop, own, and operate jointly electrical generation and transmission facilities and enter into Electric Power

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1 contracts to serve their respective electrical resource needs.

2 2.3 The Parties require certain services and property specifically to support the
3 ownership, financing, design, development, construction, operation, maintenance, replacement,
4 scheduling, hedging, and optimization of Electric Power resources, including Electric Power
5 contracts, that are owned or entered into by the Parties.

6 2.4 The acquisition of secure, reliable and economic supplies of electric power
7 is necessary for the accomplishment of essential governmental purposes of each of the Parties,
8 including the prudent and businesslike operation of Electric Power resources owned by them, the
9 continued economic development of their communities, and the promotion of the public health,
10 safety, and welfare.

11 2.5 Each of the Parties, acting either separately or jointly with one or more
12 governmental agencies, is authorized by law to own, finance, design, construct, operate,
13 maintain, replace, schedule, hedge, or optimize Electric Power resources, including Electric
14 Power contracts, and also to create a joint action agency to serve as its agent, instrumentality and
15 constituted authority in the accomplishment of these public purpose.

16 2.6 The Parties now wish to enter into a cooperative agreement pursuant to the
17 Interlocal Cooperation Act (NRS 277.080 to 277.180, inclusive) to establish a separate legal
18 entity, called the Silver State Energy Association (“SSEA”), which will have the authority to
19 own, finance, design, develop, construct, operate, maintain, replace, schedule, hedge, and
20 optimize Electric Power resources, including Electric Power contracts, for the benefit of one or
21 more of its members, such that, consistent with NRS 277.090, such members may make the most
22 efficient use of their powers by enabling them to cooperate with other local governments on a
23 basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant
24 to forms of governmental organization which will best accord with geographic, economic,
25 population and other factors influencing the needs and development of local communities.



1 **IN CONSIDERATION** of the recitals and mutual covenants contained herein, the
2 Parties agree as follows:

3 **3. DEFINITIONS AND CONSTRUCTION**

4 3.1 As used in this Agreement, except as expressly provided or unless the
5 context otherwise requires, the words and terms defined in subsections 3.2 to 3.23, inclusive,
6 when initially capitalized and whether in singular or plural, have the meanings ascribed to them
7 in those subsections.

8 3.2 **“Act”** means the Interlocal Cooperation Act, NRS 277.080 to 277.180,
9 inclusive.

10 3.3 **“Agreement”** means this Cooperative Agreement.

11 3.4 **“Ancillary Services”** means those services defined by the Federal Energy
12 Regulatory Commission or the North American Electric Reliability Corporation, or any
13 successor agency or entity, as being necessary to support the transmission of Electric Power from
14 resources to loads while maintaining reliable, secure, and safe operation of the electric
15 transmission system.

16 3.5 **“Board”** means the board of directors of the SSEA.

17 3.6 **“Bylaws”** means the internal rules of the SSEA provided for in section 12.

18 3.7 **“Director”** means a member of the board of directors of the SSEA.

19 3.8 **“Effective Date”** means the date set out in subsection 4.1.

20 3.9 **“Electric Power”** includes electrical capacity and energy.

21 3.10 **“Fiscal Year”** means the 12-month period commencing July 1 of each
22 year, immediately following midnight of June 30, and ending at midnight of June 30 of the
23 following year.

24 3.11 **“Member”** means an entity described in subsection 7.1.

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1 3.12 “**Non-Project Member**” means any Member, except the CRC, that is not
2 a signatory to an effective Project Services Agreement.

3 3.13 “**Party**” or “**Parties**” means one or more of the entities specified in
4 section 1 that are a signatory to this Agreement.

5 3.14 “**Person**” has the meaning ascribed to it in NRS 0.039.

6 3.15 “**Project**” means:

7 3.15.1 Any real, personal and other tangible property, including land,
8 buildings, structures, facilities, improvements, equipment and systems;

9 3.15.2 Any intangible property, including rights, title, interests, contracts
10 and other undertakings; or

11 3.15.3 Any activities, tasks, efforts or any deployment of resources,
12 including plans, studies, evaluations, programs, conservation, financing and re-financing,
13 ➔ for, pertaining to, or in connection with, the generation, acquisition, disposition, transmission,
14 and distribution of Electric Power that is the subject of a Project Services Agreement, or any
15 combination thereof or interest therein.

16 3.16 “**Project Budget**” means the budget for Project Expenses that is produced
17 on an annual basis in accordance with the provisions of subsection 16.2.

18 3.17 “**Project Expenses**” means all expenses that have been deemed, through
19 the adoption of a Project Budget, to be directly assignable to a specific Project, including
20 expenses for labor and other personnel and training, and costs for construction, equipment,
21 personal services contracts, and insurance.

22 3.18 “**Project Member**” means any Member that is a signatory to an effective
23 Project Services Agreement.

24 3.19 “**Project Services**” means planning, development, design, construction,
25 ownership, operation, maintenance, scheduling, and optimization of a Project or any other



1 services required in support of a Project.

2 3.20 **“Project Services Agreement”** means an agreement that one or more
3 Members enter into with the SSEA for Project Services.

4 3.21 **“Public Agency”** has the meaning ascribed to it in subsection 1 of NRS
5 277.100.

6 3.22 **“SSEA”** means the Silver State Energy Association, the legal entity
7 established by this Agreement.

8 3.23 **“SSEA Administrative and General Expenses”** means all expenses
9 necessary for the operation of the SSEA that are not directly assignable to a specific Project,
10 including expenses for labor and other personnel, and costs for office space, travel and training,
11 computers, office equipment, legal services, and personal services contracts.

12 3.24 Unless otherwise specified, references to sections and exhibits are
13 references to sections and exhibits of this Agreement.

14 3.25 Section, subsection or paragraph headings are inserted for reference
15 purposes only and shall not be construed in interpreting the terms and provisions of any section,
16 subsection or paragraph of the Agreement as a whole.

17 3.26 The term “include” and its derivations are not limiting.

18 **4. EFFECTIVE DATE, TERM OF AGREEMENT; SPECIFIC**
19 **LIMITATIONS**

20 4.1 This Agreement is effective as of the date of execution by all of the
21 original Parties and its approval, given or deemed to be given, by the Attorney General of
22 Nevada pursuant to NRS 277.140.

23 4.2 This Agreement shall remain effective until terminated pursuant to section
24 26.

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1 4.3 This Agreement is subject to all applicable federal, state, and local laws,
2 and nothing herein shall be construed to alter, amend, or affect existing laws or relieve any Party
3 of any duties or liabilities set by those laws.

4 4.4 Except as expressly provided herein, nothing in this Agreement waives,
5 terminates, or otherwise releases a Party from performing its duties or satisfying its obligations
6 under any other contract with any other Party.

7 4.5 No provision of this Agreement shall be construed as obligating any of the
8 Parties to expend funds or enter into any contract or other obligation for future payment of
9 money in excess of amounts appropriated or authorized by law for that purpose or supplied for
10 that purpose by any other funding mechanism available to that Party.

11 **5. ESTABLISHMENT, DUTIES OF THE SSEA**

12 5.1 There is hereby established a legal entity to be known as the “Silver State
13 Energy Association.” The SSEA is established under this Agreement pursuant to the provisions
14 of the Act. The SSEA shall be a political subdivision of the State of Nevada and shall be
15 separate from the Members, pursuant to NRS 277.074 and 277.120.

16 5.2 The SSEA shall carry out all duties necessary to provide the Project
17 Services identified under the various Project Services Agreements with its Members.

18 **6. POWERS OF THE SSEA**

19 6.1 The SSEA shall have the power in its own name to do the following:

20 6.1.1 Own, finance, design, develop, construct, operate, maintain, and
21 replace Projects.

22 6.1.2 Buy or sell Electric Power, fuel for Projects, financial hedging
23 instruments, Ancillary Services, transmission or other services in connection with the operation,
24 scheduling, hedging or optimization of a Project.

25



1 6.1.3 Acquire by gift, grant, purchase or otherwise, sell, and lease or
2 control through easements or otherwise, any personal and real property, including buildings and
3 improvements, necessary or convenient for the purposes of this Agreement.

4 6.1.4 Employ or contract with any Person and any government,
5 governmental agency or political subdivision of a government, including the members of the
6 SSEA, for personnel and for professional and other services necessary or convenient for the
7 purposes of this Agreement.

8 6.1.5 Except as provided in this paragraph, borrow money or otherwise
9 incur debts, liabilities, and obligations for the purposes of this Agreement, subject to the
10 limitations of subsection 22.1. The SSEA may rely upon the creditworthiness of a Member to
11 incur debts, liabilities, or obligations with the prior consent of that Member.

12 6.1.6 Enter into:

13 6.1.6.1 Contracts and agreements related to borrowed money or
14 other indebtedness issued or incurred by the SSEA, including contracts for legal, financial
15 advisory, or other services.

16 6.1.6.2 Agreements to manage its financial obligations, and to
17 obtain ratings.

18 6.1.6.3 Necessary arrangements for credit and liquidity support
19 for its other financial obligations.

20 6.1.7 Sue and be sued in its own name.

21 6.1.8 Perform all other acts necessary or convenient to accomplish its
22 purposes or the exercise of any of its powers, including the power of eminent domain.

23 6.2 The SSEA shall have the power to jointly exercise with any Member any
24 power, privilege or authority exercised or capable of exercise by that Member.

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1 6.3 Except to the extent permitted by applicable law, nothing in this
2 Agreement shall be construed as authorizing the SSEA to perform any function or to exercise
3 any power that is not performable or exercisable by at least one of the Members without
4 reference to this Agreement.

5 6.4 Except as provided in this subsection, absent written consent of the
6 affected Member's governing body, the SSEA shall not render any service to others within a
7 Member's service area or boundaries that the Member renders or is authorized to render to others
8 within its own service area or boundaries. Nothing in this subsection prohibits the SSEA from
9 rendering service to a Member.

10 7. **COMPOSITION OF THE SSEA**

11 7.1 **Members.** The SSEA is composed of the Parties set forth in section 1,
12 and any other Public Agency admitted as a Member in accordance with the provisions of
13 subsection 7.2.

14 7.2 **Subsequent signatories.** Any Public Agency, whether or not existing on
15 the Effective Date of this Agreement, who is not an initial signatory to this Agreement and
16 whose membership in the SSEA is approved by the governing body of each then existing
17 Member, may execute this Agreement at any time during the term of this Agreement and thereby
18 become a Member.

19 8. **GOVERNING BODY OF THE SSEA**

20 8.1 The business and other affairs of the SSEA shall be conducted by a board
21 of directors consisting of one Director from each Member.

22 8.2 The governing body of each Member shall appoint one Director to
23 represent it on the Board. The appointed Director may, but need not be, a member of that
24 governing body. The governing body of each Member shall also appoint one alternate Director

1 who shall serve as the Director in the absence of the Director. In serving as the Director in the
2 absence of the Director, an alternate Director shall not function as the chairperson, vice
3 chairperson, or interim SSEA Manager without the express approval of the Board.

4 8.3 Except as provided in this subsection, a Director shall not receive
5 compensation or reimbursement for expenses from the SSEA for services as Director. A
6 Director is entitled to reimbursement for all reasonable expenses incurred while engaged in
7 SSEA-related activities, if the particular activity in which the Director is participating is
8 approved by the Board for such reimbursement as provided in paragraph 11.2.8.

9 **9. PRINCIPAL OFFICE**

10 The Board shall establish the principal office of the SSEA.

11 **10. MEETINGS**

12 The Board shall meet at its principal office or at such other place as may be
13 designated by the Board. The time and place of regular meetings of the Board must be
14 determined by the chairperson of the Board. The chairperson shall call a special meeting of the
15 Board upon the request of any Member. All meetings must comply with the provisions of NRS
16 chapter 241 (the Nevada Open Meeting Law).

17 **11. QUORUM; VOTING**

18 11.1 A quorum of the Board must be present for the purposes of transacting the
19 SSEA's business at a regular or special meeting. A quorum exists if the Directors present
20 constitute a simple majority of all Members entitled to vote under this Agreement.

21 11.2 Except as provided in subsection 11.3, a unanimous vote of all Directors
22 present and voting at a meeting is required for all decisions of the Board, including:

23 11.2.1 Any recommendation to the governing bodies of the Members
24 regarding the addition of new Members.

- 1 11.2.2 The appointment of the SSEA Manager.
- 2 11.2.3 The approval of new Projects.
- 3 11.2.4 The approval of Project Service Agreements and amendments to
- 4 those agreements.
- 5 11.2.5 The approval of amendments to the Bylaws.
- 6 11.2.6 The approval of the annual budget for SSEA Administrative and
- 7 General Expenses.
- 8 11.2.7 The approval of a contract for services.
- 9 11.2.8 Any recommendation to the governing bodies of the Members
- 10 regarding the amendment of this Agreement.
- 11 11.2.9 The reimbursement of its Directors for reasonable expenses
- 12 incurred in performing SSEA duties.
- 13 11.2.10 Requests by the SSEA for working capital or reserve accounts.
- 14 11.3 For decisions of the Board on matters directly related to the particular
- 15 Project (except the approval of Project Service Agreements and amendments to those agreements
- 16 as provided in paragraph 11.2.4), each Project Services Agreement may require, in place of the
- 17 unanimous vote described in subsection 11.2, a weighted vote of only those Directors
- 18 representing the Project Members of that Project and that are eligible to vote under this
- 19 Agreement. The weight of each Director's vote and the total weight that is necessary to adopt a
- 20 motion on such a matter must be as specified in the particular Project Services Agreement related
- 21 to that Project.

22 **12. BYLAWS**

23 The initial Bylaws for the conduct of the business of the SSEA or of the Board

24 appear as Exhibit 1, which is attached hereto and by this reference is incorporated herein and

25 made a part hereof. The Board may amend the Bylaws from time to time as the Board deems

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1 necessary or desirable. The amended Bylaws shall be deemed to be attached hereto, and by this
2 reference incorporated herein and made a part hereof.

3 **13. OFFICERS**

4 13.1 The officers of the SSEA are:

5 13.1.1 The chairperson and a vice chairperson of the Board, who the
6 Board shall elect from its membership; and

7 13.1.2 The SSEA Manager, appointed as provided in section 14.

8 13.2 The vice chairperson shall carry out the duties of the chairperson under
9 this Agreement in the absence or incapacity of the chairperson.

10 **14. SSEA MANAGER**

11 14.1 The SSEA Manager must be appointed by, and shall serve at the pleasure
12 of, the Board. The SSEA Manager is the chief administrative officer of the SSEA and shall be
13 responsible to the Board for the proper and efficient administration of the SSEA. Except as
14 provided in subsections 14.2 and 14.3, the SSEA Manager shall not be a member of the Board.

15 14.2 The chairperson of the Board shall serve as the SSEA Manager until the
16 first meeting of the Board, where the Board shall appoint an interim SSEA Manager who shall
17 serve until a permanent SSEA Manager is appointed by the Board. Nothing in this subsection
18 prevents the Board from appointing the chairperson or vice chairperson to serve as the interim
19 SSEA Manager.

20 14.3 Except as provided in subsection 14.2, whenever the position of SSEA
21 Manager is temporarily vacant or the SSEA Manager is temporarily unable to perform his or her
22 duties, the chairperson of the Board shall assume the duties of the SSEA Manager. Upon
23 assuming those duties, the chairperson shall call a meeting of the Board as soon as practicable
24 and the Board shall appoint an interim SSEA Manager who shall serve for a term not to exceed
25 six months. Except as provided in the next sentence, if the Board has not appointed a permanent

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1 SSEA Manager to succeed an interim SSEA Manager at the close of his term, the Board shall
2 appoint another interim SSEA Manager who shall serve for a term not to exceed six months. An
3 interim SSEA Manager may not succeed himself as interim SSEA Manager. Nothing in this
4 subsection prevents the Board from appointing the chairperson or vice chairperson to serve as the
5 interim SSEA Manager.

6 14.4 Subject to policy direction by the Board, and such requirements as the
7 Board may from time to time impose, the SSEA Manager shall have the power to:

8 14.4.1 Plan, organize and direct all SSEA activities.

9 14.4.2 Appoint and remove SSEA employees, subject to the
10 requirements of applicable law.

11 14.4.3 Prepare budgets consistent with the requirements of section 16.

12 14.4.4 Authorize expenditures within the approved Project Budgets.

13 14.4.5 Authorize expenditures within the approved budget for SSEA
14 Administrative and General Expenses.

15 14.4.6 Negotiate and enter into contracts on behalf of the SSEA as
16 authorized by the Board.

17 14.4.7 Take other actions authorized or directed from time to time by the
18 Board.

19 15. SSEA PROJECTS AND PROJECT SERVICE AGREEMENTS

20 15.1 Except the CRC, each Member shall execute one or more Project Services
21 Agreements with the SSEA:

22 15.1.1 Within two years from the date the Member becomes a signatory
23 to this Agreement; and

24 15.1.2 Within two years from the date when all Project Services
25 Agreements to which the Member is a signatory are no longer effective.

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1 15.2 Any one or more Members may propose a new Project by submitting to
2 the SSEA Manager a written request to initiate a Project. The request must name the Member or
3 Members proposing the Project; describe the proposed Project; and contain such other
4 information as the Board or SSEA Manager considers appropriate. The SSEA Manager shall
5 submit the written request to initiate a proposed Project to the Board for its consideration at the
6 first available Board meeting following receipt of the written request.

7 15.3 If the Board approves the initiation of the Project, the SSEA Manager,
8 together with the Project participants, shall develop a Project Service Agreement as directed by
9 the Board. The Project Services Agreement must include a description of the Project Services
10 that the participants require the SSEA to provide and any other information required by this
11 Agreement or the Board.

12 15.4 Each Project Services Agreement must provide:

13 15.4.1 That a default by a Member under this Agreement shall be
14 deemed a default under the Project Services Agreement and that a default under the Project
15 Services Agreement shall be deemed a default under this Agreement.

16 15.4.2 Remedies and measures of damages for any default that occurs
17 under this Agreement.

18 15.5 Nothing in any Project Services Agreement shall be construed to alter,
19 amend or affect any provision of this Agreement, and to the extent that a provision of a Project
20 Services Agreement is inconsistent with a provision of this Agreement, the provision of this
21 Agreement governs.

22 **16. BUDGETS**

23 16.1 Unless otherwise provided by law, the SSEA Manager shall prepare a
24 tentative budget for SSEA Administrative and General Expenses for each Fiscal Year on or
25 before April 15th with the final budget being adopted by the Board on or before June 1 of each



1 year. SSEA Administrative and General Expenses incurred during the Fiscal Year may not
2 exceed the budgeted level authorized by the Board. The budget for SSEA Administrative and
3 General Expenses may be amended by the Board as necessary.

4 16.2 The SSEA Manager shall prepare a tentative budget for each Project
5 consistent with the requirements of the applicable Project Service Agreement.

6 **17. ASSESSMENTS AND CONTRIBUTIONS FOR PROJECT EXPENSES**
7 **AND SSEA ADMINISTRATIVE AND GENERAL EXPENSES**

8 17.1 **Project Expenses.** Each Project Member is responsible for funding its
9 share of Project Expenses budgeted for each Fiscal Year. Each Project Member's share of those
10 expenses must be as specified in the Project Services Agreement respecting the particular
11 Project.

12 17.2 **SSEA Administrative and General Expenses.** Except as provided in
13 this subsection, each Member is responsible for funding an equal share of the SSEA
14 Administrative and General Expenses budgeted for each Fiscal Year. The CRC shall not be
15 responsible for a share of any SSEA Administrative and General Expenses under this
16 Agreement, except when it is a Project Member.

17 17.3 **Contributions.** Contributions or advances of public funds and of
18 personnel, supplies, equipment, or property may be made to the SSEA by any Member for any of
19 the purposes of this Agreement, with the consent of the Board. Any such advance may be made
20 subject to repayment as agreed to by the Member and the SSEA.

21 **18. BILLING**

22 18.1 Each Project Member must be billed for its share of Project Expenses in
23 accordance with the billing procedures and funding schedule specified in its Project Services
24 Agreement.

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1 18.2 On or before the 5th day of each month, each Member must be billed for
2 one-twelfth of its annual share of SSEA Administrative and General Expenses, calculated as
3 provided in subsection 17.2. Payment of the bill by the Member is due no later than the 20th day
4 of the month.

5 18.3 Within 15 days of the date of the completion of the financial audit
6 conducted in accordance with section 20, the SSEA Manager shall prepare a reconciliation of
7 billed SSEA Administrative and General Expenses against actual SSEA Administrative and
8 General Expenses for the prior Fiscal Year. Except as provided in the next sentence, the SSEA
9 must refund any over-collection to the Members that paid it within 10 days of the distribution of
10 the reconciliation. To the extent that any Member is in arrears of any amount owed to the SSEA
11 in conjunction with its payment of SSEA Administrative and General Expenses or Project
12 Expenses, the SSEA may apply any such over-collection to the balance owed by that Member.
13 The application of the over-collection to any such arrearage shall not cure an Event of Default
14 under paragraph 23.2.1 if applied after the period for cure provided in that paragraph.

15 18.4 The SSEA shall maintain an interest-bearing, working capital account to
16 accommodate cash flow needs. The procedures by which the SSEA will request working capital,
17 maintain working capital balances, and refund unneeded working capital balances, must be
18 approved by the Board.

19 **19. ACCOUNTING PROCEDURES**

20 19.1 Complete books and accounts must be maintained for the SSEA in
21 accordance with generally accepted accounting principles and standards and must comply with
22 all applicable statutes and regulations.

23 19.2 The SSEA shall produce an audited financial report on an annual basis.
24 Additional financial and other reports may be produced as required by law, provided in the
25 Bylaws, or directed by the Board.



1 **20. AUDIT**

2 20.1 The SSEA shall provide for an annual audit of all funds and accounts.
3 The scope of the audit must cover the business of the SSEA during the full Fiscal Year, including
4 all Project Expenses and SSEA Administrative and General Expenses. The audit must be
5 conducted in accordance with generally accepted auditing standards, including comment on
6 compliance with all applicable statutes and regulations, recommendations for improvements, and
7 any other comments deemed pertinent by the auditor, including the auditor's expression of
8 opinion on any financial statements.

9 20.2 Any Member may request that the books and records of the SSEA be
10 made available at any time for review or audit. The Member requesting the review or audit is
11 responsible for its own costs as well as the SSEA's costs for the review or audit.

12 20.3 The audits described in subsections 20.1 and 20.2 must be made by a
13 public accountant certified or registered or by a partnership or professional corporation registered
14 under the provisions of chapter 628 of NRS.

15 **21. DISPUTE RESOLUTION**

16 21.1 Each Member shall designate a senior officer of the Member who is
17 authorized to resolve any dispute arising under, out of, or in relation to any provision of this
18 Agreement and, unless otherwise expressly provided herein, to exercise the authority of a Party
19 to make decisions by mutual agreement. The senior officer shall not be a Director or alternate
20 Director. The designation must be made by written notice to all of the other Members within 30
21 days after a dispute arises.

22 21.2 The Parties agree to attempt in good faith to resolve all such disputes
23 promptly, and, with at least 48 hours' written notice, to provide each other with reasonable
24 access during normal business hours to any and all records, information, and data pertaining to
25 the dispute. The Parties recognize and understand that some resolutions reached may require



1 Board approval to implement.

2 21.3 If such a dispute is not resolved pursuant to subsection 21.1 within 30 days
3 after a Party has received notice referring the dispute to the designated senior officer of the Party,
4 and if all parties to the dispute mutually agree to mediation or arbitration, the dispute must be
5 submitted to mediation or binding arbitration by the American Arbitration Association (“AAA”)
6 when any party to the dispute gives the SSEA Manager a notice of demand for mediation or
7 arbitration. The mediation or arbitration must be conducted in accordance with the provisions of
8 this Agreement, the applicable provisions of the Uniform Arbitration Act of 2000 in chapter 38
9 of NRS, and, where not inconsistent with this Agreement and Nevada law, the applicable rules
10 and procedures of the AAA. The mediation or arbitration must be held in Las Vegas, Nevada, or
11 at any other mutually agreed upon location. Each party to the dispute shall bear its own expenses
12 (including attorneys’ fees) with respect to the mediation or arbitration. The parties to the dispute
13 shall share the expenses of the mediator or arbitrators equally. The arbitrators conducting an
14 arbitration proceeding under this subsection shall have no authority to award to any Party
15 consequential, incidental, punitive, exemplary or indirect damages or any lost profits or business
16 interruption damages, whether by virtue of any law or otherwise.

17 21.4 If the parties to a dispute not resolved pursuant to subsection 21.1 cannot
18 mutually agree to mediation or arbitration, the dispute may be brought to any court of competent
19 jurisdiction within the state of Nevada.

20 **22. LIABILITY; INDEMNIFICATION**

21 22.1 **Liabilities of the SSEA.** Except as expressly provided in this Agreement,
22 the debts, liabilities, and obligations of the SSEA shall be the debts, liabilities, and obligations of
23 the SSEA alone and not of the Members.

24 22.2 **Liabilities of the Board.** The funds of the SSEA must be used to defend,
25 indemnify, and hold harmless the SSEA, its Directors, officers, and employees, and any Member

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1 for actions taken within the scope of the authority of the SSEA. Nothing in this Agreement
2 limits the right of the SSEA to purchase insurance to provide coverage for any of the foregoing.

3 **22.3 Liabilities of Members.** Each Member shall be solely and exclusively
4 responsible for all damages, losses, claims, costs, charges, fines, penalties, expenses and
5 liabilities (except as provided in paragraph 22.4.2), and any interest thereon, that result from its
6 negligence, wantonness, or willful misconduct.

7 **22.4 Limitations on Liability.**

8 22.4.1 There are no warranties under this Agreement, except to the
9 extent specifically set forth in section 33.

10 22.4.2 No Party shall be liable to any other Party for consequential,
11 incidental, punitive, exemplary or indirect damages suffered by that Party or by any customer of
12 that Party, for lost profits or other business interruption damages, whether by virtue of any
13 statute, in tort or contract, under any provision of indemnity (except as provided in subsection
14 22.5) or otherwise.

15 22.4.3 Nothing in this Agreement is intended to:

16 22.4.3.1 Constitute the dedication of the electric system or
17 any portion thereof of one Party to the public or any other Party.

18 22.4.3.2 Create a contractual relationship between one Party
19 and the customers of any other Party, or create a duty of any kind to those customers.

20 22.4.3.3 Create rights in or grant remedies to any third party
21 as a beneficiary of this Agreement or of any duty, obligation, or undertaking established herein
22 except as provided in section 28.

23 22.4.4 The Parties intend that the limitations imposed in this Agreement
24 on remedies and the measures of damages be without regard to the cause or causes related
25 thereto, including the negligence of any Party, whether such negligence be sole, joint or

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1 concurrent, or active or passive.

2 22.5 **Indemnification.** To the extent it is not prohibited by state law, each
3 Party shall indemnify and hold harmless the SSEA and its Members, Board, Directors, officers,
4 agents, and employees from all damages, losses, claims, costs, charges, fines, penalties, expenses
5 and liabilities (notwithstanding the provisions of paragraph 22.4.2), including any interest
6 thereon, that result from the Party's negligence, wantonness, or willful misconduct.

7 **23. DEFAULT**

8 23.1 **"Defaulting Party" defined.** For the purposes of this section, the Party or
9 Parties in default or the Party or Parties to whom an Event of Default is attributable shall be
10 referred to as the "Defaulting Party."

11 23.2 **Events of Default.** The occurrence of any one or more of the following
12 events with respect to a Party shall constitute an "Event of Default" of this Agreement:

13 23.2.1 The failure to make payment under section 18 after those amounts
14 have become due, and the failure is not cured within 60 days after service by the SSEA Manager
15 of written notice of the failure.

16 23.2.2 Except as provided in this paragraph, any representation or
17 warranty made by a Party under section 33 proves to have been false or misleading in any
18 material respect when made, and the representation or warranty is not made true within 30 days
19 after written notification by the SSEA Manager. The cure must also remove any adverse effect
20 on the other Parties as determined by the SSEA Manager. If any Member disputes the
21 determination of the SSEA Manager, the chairperson shall call a meeting of the Board as soon as
22 practicable to conclusively decide the issue without the vote of the Defaulting Party.

23 23.2.3 The failure of a Member, except the CRC, to enter into a Project
24 Services Agreement within the period specified in paragraph 15.1.1 or 15.1.2.

25

1 23.2.4 Except as provided in this subsection, the failure by a Party to
2 comply with any material provision of this Agreement or a Project Services Agreement if the
3 failure continues uncured for 30 days after written notice thereof by the SSEA Manager. If the
4 failure is not capable of being cured within such period of 30 days with the exercise of
5 reasonable diligence, then the cure period must be extended for an additional reasonable period
6 not to exceed 90 days, so long as the Party is exercising reasonable diligence to cure the failure.
7 The failure shall not be deemed cured unless any adverse effect on SSEA or its Members
8 resulting from the failure is removed, as determined by the SSEA Manager. If any Member
9 disputes the determination of the SSEA Manager, the chairperson shall call a meeting of the
10 Board as soon as practicable to conclusively decide the issue without the vote of the Defaulting
11 Party.

12 **23.3 Determinations by SSEA Manager.** The SSEA Manager shall determine
13 and declare by written notice to the Board whether and when a Defaulting Party has cured an
14 Event of Default under subsection 23.2, including any adverse effect on other Parties or on the
15 SSEA or its Members as described in paragraphs 23.2.2 and 23.2.4, respectively. The SSEA
16 Manager's determination is conclusive and not subject to dispute by a Member, unless within 30
17 days after receipt of the notice of determination, a Member submits to the SSEA Manager a
18 written notice disputing the determination. Upon receipt of the notice of a dispute, the SSEA
19 Manager shall call for the designation of senior officers of the Members pursuant to subsection
20 21.1, and the dispute must be resolved in the manner provided in section 21.

21 **23.4 Sole and Exclusive Remedies.** Subsections 23.5 to 23.8, inclusive,
22 provide sole and exclusive remedies and measures of damages where an Event of Default as
23 described in subsection 23.2 has occurred and is continuing beyond the period for cure.

24 **23.5 Suspension of Right to Vote.** The right of a Defaulting Party, whether a
25 Project Member or Non-Project Member, to vote under this Agreement or any Project Services



1 Agreement is automatically suspended.

2 **23.6 Project Members.** If the Defaulting Party is a Project Member, the
3 remedies for Events of Default of this Agreement and the measures of damages are those set
4 forth in the applicable Project Services Agreement. Where the Defaulting Party is a signatory to
5 multiple Project Services Agreements among which the provisions for remedies or measures of
6 damages are inconsistent, the provisions that are most favorable to the SSEA, as solely and
7 conclusively determined by the Board, shall apply.

8 **23.7 Non-Project Members: Termination of Membership.** If the Defaulting
9 Party is a Non-Project Member, the Board may, with at least 10 days' prior written notice to the
10 Defaulting Party, vote to terminate the Defaulting Party's membership in the SSEA. A notice of
11 the action of the Board must be provided to the Defaulting Party. All financial obligations of the
12 Defaulting Party under this Agreement due as of the date of termination survive the termination
13 of the Defaulting Party's membership until paid or, with Board approval, assumed by another
14 Party.

15 **23.8 Non-Project Members: Default Damages.** Upon the termination of a
16 Defaulting Party's membership in the SSEA as provided in subsection 23.7, the SSEA is entitled
17 to demand payment by the Defaulting Party of Default Damages. As used in this subsection,
18 "Default Damages" means the sum of all outstanding amounts payable by the Defaulting Party to
19 the SSEA for SSEA Administrative and General Expenses. The Default Damages must be paid
20 by the Defaulting Party to the SSEA within three (3) business days after receipt of a written
21 demand for payment.

22 **24. OTHER COOPERATIVE AGREEMENTS**

23 Nothing in this Agreement prevents the Members from entering into other
24 cooperative agreements.

25

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1 **25. WITHDRAWAL OF MEMBER**

2 25.1 A Non-Project Member may voluntarily withdraw from the SSEA at any
3 time by submitting a written notice to the SSEA Manager, containing an effective date of
4 withdrawal as provided in this subsection. The withdrawal must become effective within 30
5 days from the date the notice is submitted to the SSEA. The withdrawing Party's rights to vote
6 on the Board under this Agreement shall terminate on the effective date of withdrawal.

7 25.2 A Member may not withdraw from the SSEA unless it is a Non-Project
8 Member.

9 25.3 All financial obligations of the withdrawing Party under this Agreement
10 due as of the effective date of withdrawal survive the termination of the withdrawing Party's
11 membership until paid or, with Board approval, assumed by another Party. All funds paid by the
12 withdrawing Party pursuant to this Agreement shall remain available for expenditure for the
13 purposes of this Agreement. An assignment of the Agreement in conformance with section 28
14 shall not be deemed a voluntary withdrawal for the purposes of this section.

15 25.4 The withdrawal of a Party from this Agreement prior to the termination of
16 this Agreement:

17 25.4.1 Does not terminate this Agreement or the obligations of any
18 remaining Party hereunder.

19 25.4.2 Shall not have the effect of diminishing the rights of the
20 remaining Parties or enlarging their obligations under this Agreement without their written
21 consent.

22 **26. TERMINATION**

23 26.1 This Agreement may be rescinded and the SSEA terminated by a written
24 agreement of termination executed by all Members, except during the outstanding term of any
25 indebtedness incurred by, on behalf of, or at the request of the SSEA, or for which the SSEA is



1 otherwise responsible, the terms of which preclude such termination.

2 26.2 Upon termination of the SSEA:

3 26.2.1 The obligations of the SSEA must be paid; and

4 26.2.2 All other assets must be distributed as provided in the
5 termination agreement.

6 **27. AMENDMENT**

7 This Agreement may be amended by action taken by the governing body of each
8 Member and upon a required approval given, or deemed to be given, by the Attorney General of
9 Nevada.

10 **28. ASSIGNMENT; INUREMENT**

11 28.1 Except as otherwise provided in this Agreement, the rights and duties of
12 the Members may not be assigned or delegated without the written consent of all Members,
13 which shall not be unreasonably withheld. Any attempt to assign or delegate such rights or
14 duties in contravention of this Agreement shall be null and void. Any approved assignment or
15 delegation must be consistent with the terms of any contracts, resolutions, indemnities, and other
16 obligations of the SSEA then in effect.

17 28.2 Subject to the provisions of subsection 28.1, this Agreement shall inure to
18 the benefit of, and be binding upon, the successors and assigns of the Members.

19 **29. WAIVER**

20 No waiver of any provision of this Agreement shall be valid or enforceable unless
21 in writing and signed by the Party against whom such waiver is to be enforced. No failure or
22 delay of any Party or the SSEA in exercising any power, right, or remedy under this Agreement
23 or in insisting upon the strict performance by any Party of such Party's covenants, obligations, or
24 agreements under this Agreement, shall operate as a waiver thereof, nor shall any written waiver
25 in one instance preclude any future insistence on strict performance or the exercise of any other

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1 right, power, or remedy.

2 **30. GOVERNING LAW**

3 This Agreement is governed by the laws of the State of Nevada.

4 **31. SEVERABILITY**

5 If any provision of this Agreement should be held to be invalid or unenforceable
6 by a final decision of a court of competent jurisdiction, then this Agreement shall terminate
7 unless the remaining provisions are reaffirmed by action of the governing bodies of each
8 Member within one hundred twenty (120) days from the date on which such decision of
9 invalidity or unenforceability becomes final.

10 **32. AMBIGUITIES**

11 Each of the Parties and its counsel has reviewed this Agreement and the usual rule
12 of construction that any ambiguities are resolved against the drafter shall not apply in the
13 construction and interpretation of this Agreement.

14 **33. REPRESENTATIONS AND WARRANTIES**

15 Each Party represents and warrants to the other Parties as of the Effective Date,
16 which representations and warranties shall be deemed to be repeated by each Party, including
17 any subsequent signatory, on the date this Agreement is executed by a subsequent signatory
18 pursuant to subsection 7.2, that:

19 **33.1 Valid Entity.** It is a valid legal entity duly organized and validly existing
20 in good standing under the laws under which it was created and is, to the extent required,
21 qualified to do business in Nevada.

22 **33.2 Execution.** It has all the necessary corporate and legal power and
23 authority and has been duly authorized by all necessary action to enable it to lawfully execute,
24 deliver and perform under this Agreement.

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1 33.3 **Binding Obligation.** This Agreement is the valid and binding obligation
2 of such Party, enforceable against such Party in accordance with its terms, except as such
3 enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance,
4 moratorium or other similar laws affecting enforcement generally, and by equitable principles
5 regardless of whether such principles are considered in a proceeding at law or in equity.

6 33.4 **No Conflicts.** The execution and delivery of this Agreement and the
7 fulfillment of and compliance with the provisions of this Agreement do not and will not conflict
8 with any of the terms, conditions or provisions of its organizational documents or any law
9 applicable to it or result in a breach or default under any evidence of its indebtedness or any
10 other agreement or instrument to which it is a party or by which it or any of its property is bound
11 which has a reasonable likelihood of materially and adversely affecting the performance by the
12 Party of any of its obligations under this Agreement.

13 33.5 **Actions and Proceedings.** There is no pending or, to the knowledge of
14 such Party, threatened action or proceeding affecting such Party before any governmental agency
15 that has a reasonable likelihood of materially adversely affecting or reasonably threatening the
16 ability of such Party to perform its obligations under this Agreement or the validity or
17 enforceability of this Agreement against it and that there are no bankruptcy proceedings pending
18 or being contemplated by it or, to its knowledge, threatened against it.

19 33.6 **Absence of Certain Events.** No Event of Default attributable to it has
20 occurred and is continuing and no such event or circumstance would occur as a result of its
21 entering into or performing its obligations under this Agreement.

22 33.7 **Other Agreements.** There is nothing contained in any other agreement to
23 which it is a party prohibiting it from performing its obligations under this Agreement.

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34. ENTIRETY OF AGREEMENT

This Agreement, together with Exhibit 1, constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communications and prior writings with respect thereto.

35. MULTIPLE COUNTERPARTS

This Agreement may be executed in multiple counterparts (by original or facsimile signature), each of which shall constitute one and the same agreement.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed.

Attest:

CITY OF BOULDER CITY

Pamella A. Malmstrom

By:

Vicki G. Mayes

per Pamela Malmstrom
City Clerk

Pamella A. Malmstrom

Vicki G. Mayes
City Manager

Approved as to form:

Dave Olsen

Dave Olsen
City Attorney

Attest:

COLORADO RIVER COMMISSION
OF NEVADA

George M. Caan
Executive Director

By:

Richard W. Bunker
Chairman

Approved as to form:

Gerald A. López
Senior Deputy Attorney General

ATTORNEY
GENERAL'S
OFFICE



LAS VEGAS,
NEVADA

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed.

Attest:

CITY OF BOULDER CITY

Pamela Malstrom
City Clerk


By: _____
Vicki G. Mayes
City Manager

Approved as to form:


Dave Olsen
City Attorney

Attest:

**COLORADO RIVER COMMISSION
OF NEVADA**

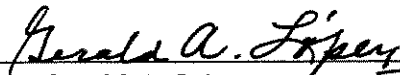


George M. Caan
Executive Director

By: 

FOR Richard W. Bunker
Chairman

Approved as to form:



Gerald A. López
Senior Deputy Attorney General

ATTORNEY
GENERAL'S
OFFICE



LAS VEGAS,
NEVADA

Attest:

LINCOLN COUNTY POWER DISTRICT NO. 1

Mick Lloyd
Mick Lloyd
General Manager

By: *Patrick Kelley*
Patrick Kelley
President

Attest:

OVERTON POWER DISTRICT NO. 5

Delmar Leatham
General Manager

By: _____
David Anderson
Chairman

Attest:

SOUTHERN NEVADA WATER AUTHORITY

Patricia Mulroy
General Manager

By: _____
Rory Reid
Vice Chair

Approved as to form:

Charles K. Hauser
General Counsel

This Agreement is hereby approved this ____ day of _____, 2007, by the Attorney General of the State of Nevada pursuant to NRS 277.140.

Catherine Cortez Masto
Attorney General



Attest:

LINCOLN COUNTY POWER DISTRICT NO. 1

Mick Lloyd
General Manager

By: _____
Patrick Kelley
President

Attest:

OVERTON POWER DISTRICT NO. 5

Delmar Leatham
General Manager

By: _____
David Anderson
Chairman

Attest:

SOUTHERN NEVADA WATER AUTHORITY

Patricia Mulroy
General Manager

By: _____
Rory Reid
Vice Chair

Approved as to form:

Charles K. Hauser
General Counsel

This Agreement is hereby approved this _____ day of _____, 2007, by the Attorney General of the State of Nevada pursuant to NRS 277.140.

Catherine Cortez Masto
Attorney General



Attest:

LINCOLN COUNTY POWER DISTRICT NO. 1

Mick Lloyd
General Manager

By: _____
Patrick Kelley
President

Attest:

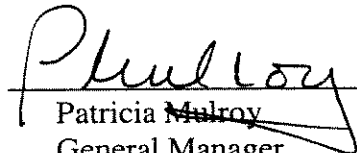
OVERTON POWER DISTRICT NO. 5

Delmar Leatham
General Manager


By: _____
David Anderson
Chairman

Attest:

SOUTHERN NEVADA WATER AUTHORITY

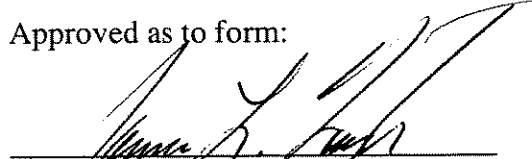


Patricia Mulroy
General Manager

By: 

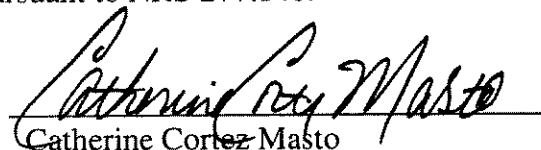
Rory Reid
Vice Chair

Approved as to form:



for Charles K. Hauser
General Counsel

This Agreement is hereby approved this 1st day of AUGUST, 2007, by the Attorney General of the State of Nevada pursuant to NRS 277.140.



Catherine Cortez-Masto
Attorney General

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EXHIBIT 1
BYLAWS
OF THE
SILVER STATE ENERGY ASSOCIATION

ARTICLE 1
DEFINITIONS

Capitalized terms used in these Bylaws shall have the meanings ascribed to them in the Cooperative Agreement among the City of Boulder City, Colorado River Commission of Nevada, Lincoln County Power District No. 1, Overton Power District No. 5 and the Southern Nevada Water Authority, dated as of _____, as amended from time to time (the "SSEA Agreement").

ARTICLE 2
NAME AND LOCATION

2.1 The name of this organization is SILVER STATE ENERGY ASSOCIATION, herein called "SSEA", with the principal office for transaction of its business located at _____.

2.2 SSEA may also maintain offices at such other places within the state of Nevada, as the Board may designate from time to time.

ARTICLE 3
BOARD OF DIRECTORS

3.1. **Power and Duties.** The Board shall have all power and authority necessary or convenient to direct the management, administration and conduct of the affairs of the SSEA and may do all such acts and things that are not inconsistent with the laws of the State of Nevada, the

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SSEA Agreement, or these Bylaws. The obligation of each Director is to act in the best interest of the SSEA.

3.2 Appointment of Directors. The appointment of each Director and alternate Director must be made in writing pursuant to the authority of the governing body of the Member and shall remain in effect until a successor is appointed and the SSEA is notified in writing.

3.3 Term of Chairperson and Vice Chairperson. The chairperson and the vice chairperson shall be elected annually by the Board and shall hold office for a period of one year commencing the first day of each Fiscal Year or until they are succeeded, respectively, by a new Director pursuant to subsection 3.2, whichever first occurs. If there is a vacancy in the office of chairperson or the vice chairperson, the Board shall promptly elect a new chairperson or vice chairperson, as the case may be, to serve through the unfulfilled term of his or her predecessor. The initial chairperson and vice chairperson shall hold office from the date of their appointment to the last day of the Fiscal Year in which they were appointed.

3.4 Board Meetings.

3.4.1 Meetings of the Board must be held monthly or as otherwise determined by the Board but in no case less than four times yearly at such time and place as shall be determined, from time to time, by the Board.

3.4.2 Written notice of, and the agenda for, all Board meetings must be mailed to each Member at least three (3) working days before the meeting.

3.4.3 Any meeting of the Board may be held in whole or in part by means of telephonic or telecommunications conference as provided in chapter 241 of NRS (the Nevada Open Meeting Law) and in the written procedures adopted by the Board. Any Director who participates in any meeting by such means shall be deemed present at such meeting for all purposes whatsoever, including the determination of whether a quorum is present and voting on all matters that come before it.



3.5 **Waiver of Notice.** Any Director may, in writing, waive notice of a meeting, and the waiver shall be deemed equivalent to the giving of notice of the meeting to the Director. Attendance by a Director at any meeting shall constitute a waiver of notice of the meeting by that Director, except where such attendance is for the express purpose of objecting that the meeting has been unlawfully convened.

3.6 **Fidelity Bonds.** The Board shall require that all officers and employees of the SSEA handling or responsible for the funds of SSEA furnish adequate fidelity bonds. The premiums for such bonds must be paid by the SSEA as an administrative and general cost.

ARTICLE 4

SEAL

The Board may provide a suitable seal containing the name of the SSEA, which seal must be in the charge of the chairperson or his or her designee.

ARTICLE 5

FISCAL MANAGEMENT

5.1 **Inspection of Records.** Financial reports and records of the SSEA must be available at the principal office of the SSEA for inspection at all reasonable times by any Member or the designee of any Member or as otherwise required by agreements adopted or entered into by the SSEA. To the extent permitted by law and the applicable policies of the Board, the SSEA may classify certain records and information as confidential.

5.2 **Execution of Documents.** Except as otherwise determined by the Board, all notes, bonds, contracts and other documents must be executed on behalf of the SSEA by either the chairperson or the vice chairperson, and all checks and drafts must be executed by:

5.2.1 The SSEA Manager, if the check or draft is for less than \$5,000; or

5.2.2 The SSEA Manager and a Director, or, in the absence of the SSEA Manager, by two Directors, if the check or draft is for \$5,000 or more.



ARTICLE 6
LITIGATION

The SSEA shall not initiate or voluntarily participate in any litigation without the approval of the Board.

ARTICLE 7
RULES OF ORDER

The rules contained in *Robert's Rules of Order*, latest edition, shall govern the meetings of the Board or any of its committees in all cases to which they can be made applicable and in which they are not inconsistent with the laws of the State of Nevada, the SSEA Agreement, and these Bylaws.

ARTICLE 8
AMENDMENTS

These Bylaws may be amended, supplemented, restated or repealed, and new Bylaws may be adopted by the Board. Any such amendment, supplement, restatement or repeal, or new Bylaws must not be inconsistent with any provision of Nevada law or the SSEA Agreement.

Dated as this _____ day of _____.

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