

**MEMORANDUM OF AGREEMENT
AMONG THE BUREAU OF RECLAMATION, DEPARTMENT OF THE NAVY, AND
THE U.S. FISH AND WILDLIFE SERVICE
FOR THE USE OF NEWLANDS RECLAMATION PROJECT FACILITIES TO
DELIVER TREATED EFFLUENT TO
STILLWATER NATIONAL WILDLIFE REFUGE**

I. Introduction

The United States Bureau of Reclamation (Reclamation), the Department of the Navy (Navy), and the U. S. Fish and Wildlife Service (Service) have entered into an Agreement to use the Newlands Reclamation Project (Project) to deliver treated effluent to Stillwater National Wildlife Refuge (Refuge). The Navy has historically released treated effluent from Naval Air Station Fallon, Nevada (NAS Fallon) into Project facilities.

II. Purpose

This Agreement defines the relationship and duties of the agencies in the release, conveyance and use of treated effluent from NAS Fallon to the Refuge.

III. Authorities

Section 206 (a) of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act of 1990 (Act) (Pub. L. 101-618, 104 Statute 3294) authorizes the Secretary of the Interior (Secretary) to acquire water and water rights sufficient to sustain 25,000 acres of primary wetlands on a long-term basis within the Lahontan Valley, an area that includes the Refuge. Section 206 (a)(3)(A) of the Act authorizes the Secretary to use federal water facilities to deliver water to the wetlands on a non-reimbursable basis. This agreement is consistent with Reclamation's policy guidance regarding Requests to Authorize Non-Agricultural Discharges into Reclamation Facilities – Requirements related to Clean Water Act Compliance (D&S ENV06-01). The Navy's release of treated effluent is currently permitted by the Nevada Division of Environmental (NDEP) Protection Permit No. NV0110001 (June 22, 2007).

IV. Agency Responsibilities

a. Responsibilities of the Service:

1. The Service will divert treated effluent at the current point of release from NAS Fallon's Wastewater Treatment Plant within the SW ¼ of the SE ¼ of Section 23, Township 18 North, Range 29 East, MDBM, and convey it through an existing ditch (formerly the F4X Drain) to the Lower Deep Diagonal Drain, then downstream through existing Project facilities to the Refuge. See Figures 1 and 2, attached hereto and made a part hereof.

2. The Service will assist the Navy in obtaining a permit from the Nevada State Engineer to appropriate its treated effluent for NAS Fallon. The Service will seek a secondary permit from the Nevada State Engineer to appropriate treated effluent at the current point of release from NAS Fallon's Wastewater Treatment Plant and convey it through the Project to the Refuge.

3. The Service shall coordinate and measure deliveries of the treated effluent from NAS Fallon to the Refuge with the Truckee-Carson Irrigation District to avoid any adverse effects to Project operations or efficiency.

b. Responsibilities of the Navy:

1. The Navy shall, with respect to effluent discharges from NAS Fallon, remain solely responsible for compliance with all applicable federal and state water quality laws, regulations and requirements, including the Clean Water Act, as amended (33 USC 1251, et. seq), and applicable provisions of Chapter 445A of the Nevada Revised Statutes and standards and conditions set forth in current and future NDEP permits pertaining to such discharges.

2. The Navy acknowledges that there are local, regional and national Reclamation rules, regulations and policies which apply to releases of effluent into a federal Project. This Agreement does not suspend or modify those rules, regulations and policies; however, this Agreement recognizes that the special authority provided under the Act to use Project facilities to convey water to wetlands authorizes the conveyance of treated effluent from NAS Fallon to the Refuge. Should the Navy propose or attempt any other use of Project facilities for conveyance of its treated effluent, then this Agreement shall not apply and the Navy shall be subject to all of Reclamation's rules, regulations and policies which may be applicable to non-wetlands use or conveyance.

c. Responsibilities shared by Reclamation, the Navy and the Service:

1. Reclamation, Navy and the Service shall have the right to make determinations necessary to administer this Agreement that are consistent with the provisions of this Agreement, applicable laws of the United States and of Nevada, and applicable rules and regulations promulgated by the Secretary and the Secretary of the Navy. Each party shall make such determinations in consultation with the other parties to the extent reasonably practicable.

2. Reclamation, Navy and the Service recognize that delivery of treated effluent pursuant to this Agreement is subject to applicable federal Reclamation law, as may be amended and supplemented, and applicable rules and regulations promulgated by the Secretary under Reclamation law.

V. Implementation, Amendment and Termination

a. This Agreement will become effective on the date of the last signature, and may be subsequently amended through written Agreement of all signatories.

b. Nothing in this Agreement may be construed to require the signatories to obligate to pay funds or in any way take action in violation of the Anti-Deficiency Act (31 USC 1441).

c. Nothing in this Agreement or the secondary permit to the Service will require the Navy to continue delivering treated effluent at the current point, or limit the Navy's ability to seek other secondary permits to use its treated effluent for other purposes at other places.

d. Treated effluent released from NAS Fallon into Project facilities shall not be considered project diversions under the Project's Operating Criteria and Procedures (OCAP) (43 CFR Part 418). The delivery of treated effluent from NAS Fallon to the Refuge shall not be considered as a Project delivery for OCAP purposes.

e. This Agreement shall remain in effect for a period of 25 years beginning as of the effective date. This Agreement may be renewed for successive periods of 25 years.

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IN WITNESS WHEREOF, Reclamation, Navy and the Service have executed this Agreement.

Office of the Solicitor
Pacific Southwest Region
U.S. Department of the Interior

(As to legal sufficiency)

By: Kenneth L. Parr 8/12/09
KENNETH L. PARR Date
Area Manager
Lahontan Basin Area Office
Bureau of Reclamation

By: _____ Date
AMY AUFDEMBERGE
Assistant Regional Solicitor

By: Stephan Seyer 8/24/09
MARGARET T. KOLAR Date
Assistant Regional Director, Refuges
Pacific Southwest Region
U.S. Fish and Wildlife Service

By: W.D. French 10/13/09
W. D. FRENCH Date
Rear Admiral, U. S. Navy
Commander, Navy Region Southwest
Department of the Navy

Acknowledged:

By: David P. Overvold 8/26/09
DAVID P. OVERVOLD Date
Project Manager
Truckee-Carson Irrigation District

IN WITNESS WHEREOF, Reclamation, Navy and the Service have executed this Agreement.

Office of the Solicitor
Pacific Southwest Region
U.S. Department of the Interior

(As to legal sufficiency)

By: 
AMY AUFDEMBERGE Date
Assistant Regional Solicitor

By: _____
KENNETH L. PARR Date
Area Manager
Lahontan Basin Area Office
Bureau of Reclamation

By: _____
MARGARET T. KOLAR Date
Assistant Regional Director, Refuges
Pacific Southwest Region
U.S. Fish and Wildlife Service

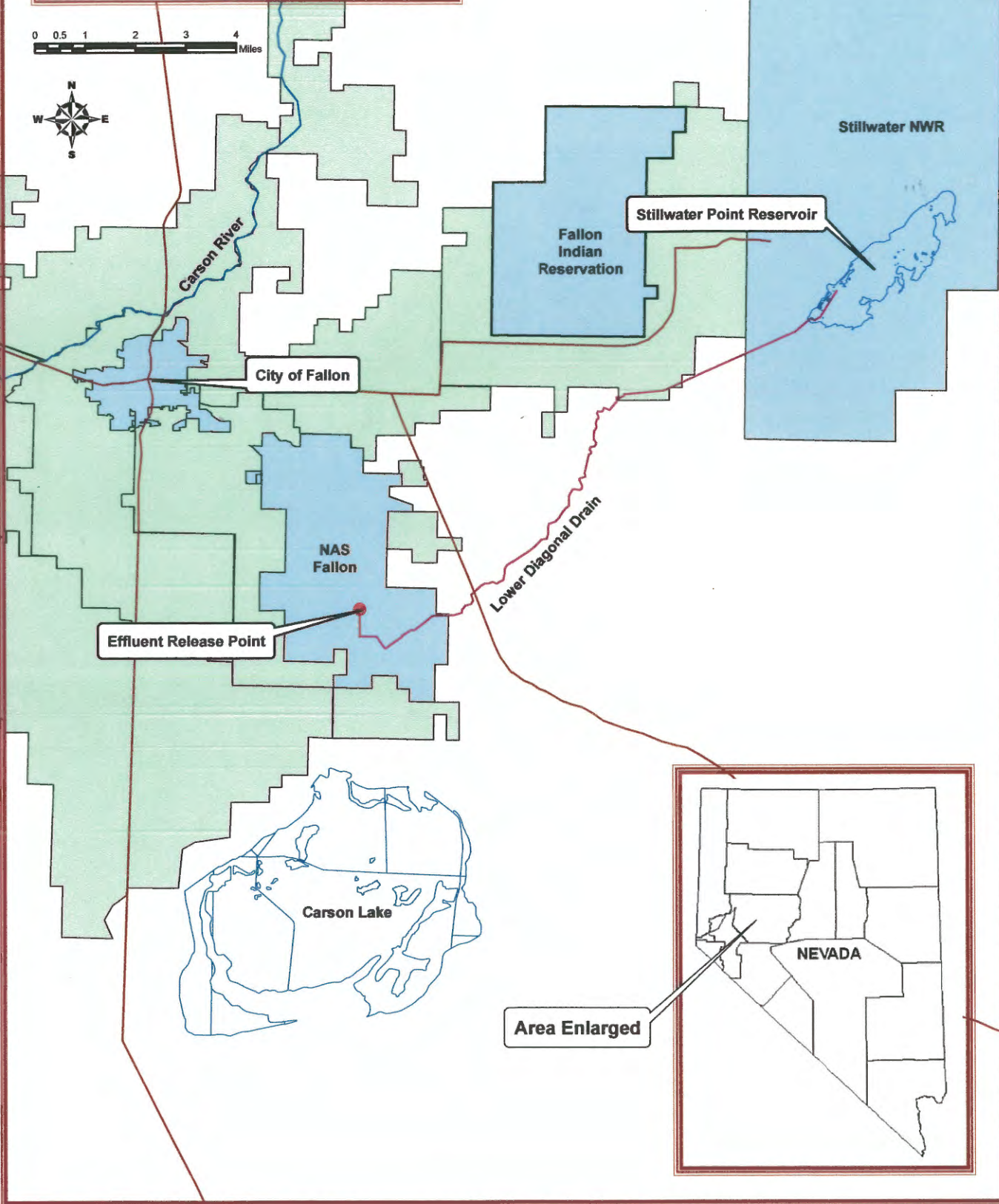
By: _____
L. R. HERING Date
Rear Admiral, U.S. Navy
Commander, Navy Region Southwest
Department of the Navy

Acknowledged:

By: _____
DAVID P. OVERVOLD Date
Project Manager
Truckee-Carson Irrigation District

Figure 1 - Area Map

Carson Division, Newlands Reclamation Project



Area Enlarged



Figure 2 - Point of Discharge
SW 1/4 SE 1/4, Section 23, Township 18 North, Range 29 East, MDB&M

RECLAMATION
Managing Water in the West

Lahontan Basin Area Office
705 N. Plaza Street, Carson City, NV 89701

**Memorandum of Agreement among
United States Bureau of Reclamation,
Commander, Navy Region Southwest, and
United States Fish and Wildlife Service**



SECONDARY

THE STATE OF NEVADA

PERMIT TO CHANGE THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

Name of applicant: UNITED STATES OF AMERICA
FISH AND WILDLIFE SERVICE

Source: STORAGE

Basin: CARSON DESERT

Manner of Use: RECREATIONAL

Period of Use: January 1st to December 31st

Priority Date: 02/19/2010

APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the following limitations and conditions:

This secondary permit is issued subject to the terms and conditions under Permit 79614. The granting of this secondary permit is not intended in any way to waive or affect authority or requirements of water quality control agencies or regulations. This permit is further issued subject to the provisions of NRS 533.440 and the State retains the right to regulate the use of the water herein granted at any and all times. This secondary permit is issued subject to existing rights. A totalizing meter must be installed in the discharge pipeline near the point of diversion and accurate measurements must be kept of effluent diverted to beneficial use. The meter must be installed prior to the filing of the Proof of Completion and before any use of effluent begins.

This secondary permit does not extend the permittee the right of ingress and egress on public, private or corporate lands.

The issuance of this secondary permit does not waive the requirements that the permit holder obtain other permits from State, Federal and local agencies.

The point of diversion and place of use are as described on the submitted application to support this permit.

(Continued on Page 2)

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, **and not to exceed 1.16 cubic feet per second or 840 acre-feet annually.**

Work must be prosecuted with reasonable diligence and proof of completion of work shall be filed on or before:

November 18 2012

Water must be placed to beneficial use and proof of the application of water to beneficial use shall be filed on or before:

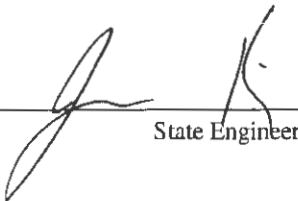
November 18 2015

Map in support of proof of beneficial use shall be filed on or before:

N/A

IN TESTIMONY WHEREOF, I, JASON KING, P.E.,

State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 18th day of November, A.D. 2010

 P.E.

State Engineer

Completion of work filed _____

Proof of beneficial use filed _____

Cultural map filed _____

Certificate No. _____ Issued _____

AMENDED

Application No. 79614 S01

SECONDARY

**APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC
WATERS OF THE STATE OF NEVADA**

THIS SPACE FOR OFFICE USE ONLY	
Date of Filing in State Engineer's Office	<u>FEB 19 2010</u>
Returned to applicant for correction	<u>MAR 05 2010</u>
Corrected Application filed	<u>MAR 23 2010</u>
Map filed	<u>MAR 23 2010 under 79614</u>

The applicant United States of America, Fish and Wildlife Service

1000 Auction Road of Fallon
Street Address or P.O. Box City or Town

NV 89406 hereby make(s) application for permission to appropriate the
State and ZIP Code

public waters of the State of Nevada, as hereinafter stated. (If applicant is a corporation, give date and place of incorporation; if a copartnership or association, give names of members.)

1. The source of the proposed appropriation is Effluent from NAS Fallon's wastewater treatment plant.
Name of the stream, lake, underground, spring or other source.

2. The amount of water applied for is 1.16 CFS
One second foot equals 448.83 gallons per minute.

(a) If stored in a reservoir give the number of acre-feet _____

3. The water is to be used for maintenance of wetlands for recreation and wildlife/storage.
Irrigation, power, mining, commercial, domestic or other use. Must be limited to one major use.

4. If use is for:

(a) Irrigation, state number of acres to be irrigated _____

(b) Stockwater, state number and kind of animals _____

(c) Other use (describe fully in No. 12) _____

(d) Power:

(1) Horsepower developed _____

(2) Point of return of water to stream _____

5. The water is to be diverted from its source at the following point: (Describe as being within a 40-acre subdivision of public survey, and by course and distance to a found section corner. If on unsurveyed land, it should be so stated.)

~~SE 1/4 SW 1/4 Section 23, T. 18N., R. 29E., M.D.B. & M., or at a point from which the SE corner of said Section 23 bears S64°22'E, a distance of 2,860.00 feet.~~

SW 1/4 SE 1/4 of Section 23, T. 18N., R. 29E., M.D.B. & M., or at a point from which the SE corner of Section 26, T. 18N., R 29E., M.D.B. & M., bears S. 21°56'20"E. a distance of 6,980 feet.

6. Place of use: (Describe by legal subdivision. If on unsurveyed land, it should be so stated.)

All federally owned or controlled lands within the approved boundary of the Stillwater National Wildlife Refuge as described in Exhibit "A". Refer to maps filed under Permit 65700-~~77611~~

63652

REL per phone call

7. Use will begin about January 1 and end about December 31 of each year.
Month and Day Month and Day

8. Description of proposed works. (Under the provisions of NRS 535.010 you may be required to submit plans and specifications of your diversion or storage works.) (State manner in which water is to be diverted, i.e. diversion structure, ditches and flumes, drilled well with a pump and motor, etc.)

Effluent will be conveyed from the existing NAS Fallon waste water treatment plant through the former E4X Drain, thence via the Lower Diagonal Drain to Stillwater NWR. All necessary works are already completed.

9. Estimated cost of works: N/A

10. Estimated time required to construct works: N/A
(If the well is complete, describe works.)

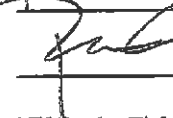
11. Estimated time required to complete the application of water to beneficial use: ten (10) years

12. Remarks: For use other than irrigation or stock watering, state number and type of units to be served or annual consumptive use.

This secondary application to appropriate effluent from NAS Fallon's wastewater treatment plant is made pursuant to the attached Memorandum of Agreement between the Department of the Navy, U.S. Bureau of Reclamation and U.S. Fish and Wildlife Service. Treated effluent will be discharged to a ditch thence into the Lower Diagonal Drain under a permit issued by the Nevada Department of Environmental Protection (Permit NV0110001). The proposed point of diversion is the point at which this effluent is discharged.

 3/23/10
Richard Grimes, Supervisory Realty Specialist

richard_grimes@fws.gov
E-mail Address
(775) 423-5128 extension 225
Phone No.


Type or print name clearly
Signature, applicant or agent
NV Realty Field Office, U.S. Fish & Wildlife Service
Company Name
1000 Auction Road
Street Address or PO Box
Fallon NV 89406
City, State, ZIP Code

APPLICATION MUST BE SIGNED BY THE APPLICANT OR AGENT

\$250 FILING FEE AND SUPPORTING MAP MUST ACCOMPANY APPLICATION

EXHIBIT A

PROPOSED PLACE OF USE
~~APPLICATION TO CHANGE NEWLANDS PROJECT WATER RIGHT~~

The proposed place of use is Stillwater National Wildlife Refuge, consisting of all federally-owned or federally-controlled lands within:

Township 21 North, Range 32 East, Mount Diablo Meridian

Sections: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34

Township 21 North, Range 31 East, Mount Diablo Meridian

Sections: All

Township 20 North, Range 32 East, Mount Diablo Meridian

Sections: 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 21, 29 and 30

Township 20 North, Range 31 East, Mount Diablo Meridian

Sections: All

Township 19 North, Range 31 East, Mount Diablo Meridian

Sections: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32 and 33

Township 19 North, Range 30 East, Mount Diablo Meridian

Section 13: all those portions of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying east of Stillwater Slough

Section 24: NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$

STATE OF NEVADA

BRIAN SANDOVAL
Governor



LEO DROZDOFF
Director

JASON KING, P.E.
State Engineer

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

901 South Stewart Street, Suite 2002
Carson City, Nevada 89701-5250
(775) 684-2800 • Fax (775) 684-2811

<http://water.nv.gov>

February 17, 2016

RECEIVED

FEB 18 2016

STILLWATER NWR
FALLON, NV

U.S. Fish and Wildlife Service
1020 New River Parkway, Suite 305
Fallon, NV 89406-2613

Re: **Permit 79614S01 Certificate 19977**

Gentlemen:

Please find enclosed Certificate 19977 issued under the provisions of NRS § 533.425. Please be advised that compliance with all permit terms is still required

Please be advised that the permittee is responsible for notifying the State Engineer's Office of any address change. Furthermore, when multiple addresses are used by the applicant or agent, the required legal notices will be sent to the latest address of record and not to earlier addresses unless proper written notification from the applicant or agent directs otherwise.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason King".

Jason King, P.E.
State Engineer

JK/sc
Enclosures

STATE OF NEVADA

CERTIFICATE OF APPROPRIATION OF WATER

Under the provisions of NRS 533.425, the State Engineer has determined:

The point of diversion of water from the source is as follows:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23, T.18N., R.29E., M.D.B.&M., or at a point from which the SE corner of Section 26, T.18N., R.29E., M.D.B.&M., bears S. 21°56'20" E., a distance of 6,980 feet situated in Churchill County, State of Nevada.

Owner of Record: United States of America,
Fish and Wildlife Service

Source: Treated Effluent

Manner of use: Recreation

Amount of appropriation: 0.567 c.f.s. but not to exceed 237.92
acre-feet annually

Period of use: January 1st through December 31st
of each year

Date of priority: February 19, 2010

Description of works of diversion and manner and place of use:

Treated effluent is discharged from the Fallon NAS sewer treatment plant into the Lower Diagonal Drain and flows into the Stillwater Reservoir, located within the Stillwater National Wildlife Refuge and Management Area, for maintenance of wetlands, recreation and wildlife/storage located within the following:

Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34, T.21N., R.32E., M.D.B.&M.

All of Sections 1 through 36, T.21N., R.31E., M.D.B.&M.

Sections 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 21, 29 and 30, T.20N., R.32E., M.D.B.&M.

All of Sections 1 through 36, T.20N., R.31E., M.D.B.&M.

Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32 and 33, T.19N., R.31E., M.D.B.&M.

NE¹/₄ NE¹/₄, SE¹/₄ NE¹/₄, NE¹/₄ SE¹/₄ and SE¹/₄ SE¹/₄ Section 13, T.19N.,
R.30E., M.D.B.&M., lying east of Stillwater Slough.

NE¹/₄ NE¹/₄, NW¹/₄ NE¹/₄, NE¹/₄ NW¹/₄, SE¹/₄ NW¹/₄ and SW¹/₄ NE¹/₄ Section 24,
T.19N., R.30E., M.D.B.&M.

This certificate is issued subject to the terms of the permit and specifically subject to the following term:

This certificate is issued subject to the availability of effluent by the provider and terminates when that availability ceases and is further subject to the terms stated in the Memorandum of Agreement among the Bureau of Reclamation, Department of the Navy, and the U.S. Fish and Wildlife Service.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, JASON KING, P.E., State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 17th day of February, 2016.



State Engineer

MMM/sc