

LEMMON VALLEY MARSH AND PLAYA EFFLUENT REUSE AGREEMENT

B-2247
2-9-99
10B

This Effluent Reuse Agreement (the "Agreement") is entered into this 9th day of February, 1999, by and between the City of Reno, a municipal corporation of the State of Nevada (the "City") and Washoe County, a political subdivision of the State of Nevada (the "County").

WHEREAS, the County desires to develop an area commonly known as the Lemmon Valley Marsh and Playa as an outdoor education center and as a National Audubon Bird Sanctuary; and

WHEREAS, the County requires a reclaimed supply of water in order to properly develop and maintain this area in order to carry out the foregoing purposes; and

WHEREAS, the City owns and operates the Stead Wastewater Treatment Plant (the "Plant") which discharges treated effluent which is carried through the Unnamed Stream to the Lemmon Valley Marsh and Playa; and

WHEREAS, the County desires to secure treated effluent from the Plant for the purpose of developing and maintaining the Lemmon Valley Marsh and Playa and the City is willing to provide treated effluent for such a purpose, subject to the terms of this Agreement; and

WHEREAS, the City and the County desire to reduce to writing their agreements and understandings with respect to the use of treated effluent at the Lemmon Valley Marsh and Playa,

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, it is agreed as follows:

Section 1. Term

1.1. The term of this Agreement shall be twenty-five years with the right to extend the term for an additional twenty-five (25) years subject to the provisions of this Agreement regarding termination.

Section 2. Effluent Quantity and Use

2.1. To the extent that the Stead Wastewater Treatment Plant continues and is permitted by law to continue to discharge treated effluent into the Unnamed Stream, the City agrees to assign a secondary water right from the primary rights assigned the City for the Stead Wastewater Facility in an amount sufficient to allow the County to use the treated effluent described herein and to provide to the County at least 490 acre feet of such effluent or Unnamed stream creek right per calendar year for the purpose of maintaining the Lemmon Valley Marsh and Playa as an outdoor education center and a National Audubon Bird Sanctuary, provided, however, that the County shall have no right to receive any amount of such effluent during the

time periods of July, August and September of each calendar year. Should excess treated effluent be available and delivered to the Lemmon Valley Marsh, the County agrees to utilize any such effluent for the above described purposes. All treated effluent delivered under this Agreement shall be delivered to the same approximate location within the Lemmon Valley Marsh and Playa as it is currently delivered via the Unnamed Stream.

2.2. The County assumes responsibility for any effluent management plans, permits and costs that may be required to utilize the effluent within the Lemmon Valley Marsh and Playa from the Stead Wastewater Treatment Facility Plant pursuant to any conditions imposed by the Nevada Division of Environmental Protection.

2.3. The County shall put the effluent provided by the City to the beneficial use described in this Agreement.

Section 3. Charges

3.1. The treated effluent and/or Unnamed Stream creek right supplied by the City under this Agreement will be supplied free of any charge to the County.

Section 4. Measurement of Effluent

4.1. The existing flow meter for measuring flow rates and volume of treated effluent supplied by the City to the County for use at the Lemmon Valley Marsh and Playa shall be owned and maintained by the City. If replacement is necessary at any time during the term of this Agreement, the costs shall be borne by the City. The meter shall be tested at intervals of not more than one year and the cost of testing and calibration, if necessary, shall be borne by the City. The City shall provide monthly meter readings in an annual report to the County regarding the amount of effluent discharged to the Unnamed stream.

Section 5. Indemnification

5.1. The County shall maintain the Lemmon Valley Marsh and Playa and associated appurtenances and conduct its activities thereon with respect to the use of the treated effluent so as not to endanger any person lawfully thereon and the County hereby covenants and agrees to defend, indemnify, save and hold the City free, clear and harmless from any and all liability, loss, costs, charges, penalties, obligations, expenses, attorneys' fees, litigation, judgments, damages, claims and demands of any kind in connection with, arising out of, or by reason of any violation of law, ordinance, or regulation by the County, its agents, its employees, its contractors, or by reason of any injury or damage occurring to any person or persons (including the County, its agents, its employees, or its contractors) during the term of this Agreement.

5.2 The City hereby covenants and agrees to defend, indemnify, save and hold the County harmless from any and all liability, loss, costs, charges, penalties, obligations, expenses, attorneys' fees, litigation, judgments, damages, claims and demands of any kind in connection with, arising out of, or by reason of supplying treated effluent to the Lemmon Valley Marsh and Playa that does not comply with the requirements of any applicable regulatory permit.

Section 6. Assignment and Sublease

6.1. The County shall not convey, sell, grant, assign or encumber any right under this Agreement or any right to use the treated effluent obtained thereby.

Section 7. Cessation or Reduction of Wastewater Treatment Facility Operations

7.1. If the City ceases or reduces operations of the Plant at its present site in such a manner that it will no longer be able to supply treated effluent to the County in the quantity specified hereunder, the City may terminate this Agreement by providing notice to the County at least 24 months prior to such cessation or reduction of operations.

Section 8. Cessation of County Operations

8.1. If the County permanently discontinues or ceases operations or changes conditions at the Lemmon Valley Marsh and Playa so that the marsh no longer requires or needs treated wastewater effluent for its operations, the City may terminate this Agreement by providing notice to the County as specified herein, provided however that no such termination shall prohibit the City from continuing to dispose of effluent in a manner consistent with the terms of its discharge permit or from continuing to dispose of effluent to the Lemmon Lake Valley Marsh and Playa.

Section 9. Right of Entry and Public Health/Environmental Remedies

9.1. The City and its authorized agents and representatives shall have full right of access to the Lemmon Valley Marsh and Playa and the County's facilities.

Section 10. Applications and Permits

10.1. The County shall be solely responsible for submitting any and all applicable applications and for securing any and all applicable permits that may be required to utilize the effluent described in this Agreement.

Section 11. Default

11.1. In the event that either the City or the County fails to perform any covenant or term of this Effluent Reuse Agreement other than as specified in Section 5.1 or 5.2, the sole remedy of the non-defaulting party for such default shall be the right to terminate the Agreement. Both parties retain any and all remedies available at law or in equity with respect to any default by the other party under Section 5.1 or 5.2.

11.2. In the event the County fails or is unable to develop the wetlands for public access and use within 15 years from the date of this Agreement, the County's right to receive the water rights under section 2.1 of this agreement shall terminate.

Section 12. Notices

12.1. Any and all notices and demands by either party hereto to the other party required

or desired to be given hereunder shall be in writing and shall be validly given or made if served either personally or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, addressed as follows:

If to the City: Sanitary Engineer
 City of Reno
 P. O. Box 1900
 Reno, NV 89505-1900

If to the County: Manager, Utility Services Division
 Washoe County Dept. of Water Resources
 P.O. Box 11130
 Reno, NV 89520

Section 13. Project Sign

13.1. The County shall construct a permanent sign at the wetland facilities designating the City of Reno's contribution for water rights and as a sponsor of Lemmon Valley Marsh and Playa.

Section 12. Successors

12.1. This Effluent Reuse Agreement is binding on the City and the County and each of their successors in interest.

IN WITNESS WHEREOF, the undersigned have executed this Effluent Reuse Agreement as of the date first written above.

CITY OF RENO

By: _____

Mayor, Jeff Griffin

ATTEST:

City Clerk

Approved as to form: City Attorney

WASHOE COUNTY BOARD OF
COMMISSIONERS

By: _____

Chairman, Jim Galloway,

ATTEST:

County Clerk

Approved as to form: Washoe County District Attorney

**MEMORANDUM OF UNDERSTANDING
LEMMON VALLEY MARSH AND PLAYA
SWAN LAKE NATURE STUDY AREA**

This Memorandum of Understanding is made and entered into this second day, of April, 1999, by and between Bureau of Land Management, USDI, hereafter referred to as "BLM"; and City of Reno, hereafter referred to as "Reno"; and Lahontan Audubon Chapter of the National Audubon Society, hereafter referred to as "Audubon"; and Nevada Division of Wildlife, hereafter referred to as "NDOW"; and Nevada Office of the Military, hereafter referred to as "Military; and Washoe County, hereafter referred to as "Washoe; and Washoe County School District, hereafter referred to as "Washoe School."

WITNESSETH

WHEREAS, it is the declared and acknowledged intention of all parties named herein to preserve, manage, and to develop the the resources of the Lemmon Valley Marsh and Playa as an outdoor education/interpretive area to be managed by Washoe County in cooperation with BLM and the Military; and

WHEREAS, this Memorandum of Understanding delineates each party's role and responsibility in the acquisition of land, design of facilities, construction of facilities, and long term resource management and operation and maintenance of facilities.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree to the following participation:

1. EACH PARTY WILL:

A. Cooperate in establishing and participating in the Lemmon Valley Marsh Advisory Board, to include establishment of By Laws for the Advisory Board. The Board will advise the Washoe County Park Commission and the operating agencies on design of facilities, and on guidelines and policies for the operation and resource management of the Marsh.

B. To the extent permitted by law and regulation (State and Federal), the parties agree to negotiate and enter into appropriate agreements to apportion liability for risk, and indemnity agreements, based upon each respective party's activities, responsibilities, and involvement.

2. Bureau of Land Management will:

A. As a major land owner in the marsh area and a key partner in the development of the outdoor education/interpretive area therefore agree to the extent consistent

with the laws governing the administration of public lands to enter into a Cooperative Management Agreement with Washoe County and the Military.

B. When applicable assist in seeking funds to develop both park facilities and interpretive programs and funding for wildlife habitat management.

C. Assist in providing technical expertise in wildlife habitat management and in the development of interpretive signage.

3. City of Reno will:

A. As a key partner in providing the necessary water resources to the Marsh allocate via the Lemmon Valley Marsh Effluent Agreement (Dated 3-16-1999), 490 acre feet of reclaimed water to the Marsh and 3 cfs of stream flow from the "UnNamed Creek" to the Marsh.

B. Assist in the protection of the Marsh environment through implementation of specific standards regarding the "Edge" treatment of future development adjacent to the Marsh.

4. Lahontan Audubon Chapter of the National Audubon Society will:

A. Provide the lead role in coordinating and encouraging national recognition in designating the Marsh as a National Bird Sanctuary.

B. Provide the lead role in seeking the renaming of Lemmon Lake back to its' original name Swan Lake and/or the naming of developed area the "Swan Lake Nature Study Area".

C. Assist in securing grants and providing volunteer services for the Marsh.

D. Provide expertise in bird habitat when implementing the interpretive master plan.

E. Develop the educational program in cooperation with Washoe County School District's Science Coordinator.

F. Provide the financial and/or volunteer support to construct an observation deck at the Marsh.

5. Nevada Division of Wildlife will:

A. Provide technical expertise for the support of the project with respect to wildlife management, wetlands development and water modeling as it effects wetland function.

B. Provide technical expertise for interpretive signage and educational materials and/or programs.

C. When applicable assist in seeking grants for the development of wetlands, facilities and programming that may occur at the Marsh.

6. Nevada Office of the Military will:

A. As a major land owner of the Marsh area support the Marsh project by allocating Military land for trails as outlined in the Master Plan and agree to the extent consistent with the laws governing the administration of military lands to enter into a Cooperative Management Agreement.

B. Seek financial support for the Marsh for selected aspects of the project with Military Environmental Project Funds as they are made available.

C. Participate in the adopting of guidelines and policies for the management of the Marsh resources as it relates to military training missions and possible closures.

7. Washoe County will:

A. As the purveyor of Regional Park facilities will take a lead role in the acquisition of access easements and the primary staging area for the Marsh.

B. Enter into a Cooperative Management Agreement with BLM and the Military for the development and operations of the Marsh.

C. Provide the lead role in coordinating and administering the design and development of the lands owned or leased by Washoe County for the Marsh project.

D. Cooperate and assist in the establishment of the Lemmon Valley Marsh Advisory Board and all other necessary inter agency agreements.

E. Explore the opportunity for acquisition and exchanges of land to further the conservation of the Marsh and Playa.

F. Administer funds as available by the Board of County Commissioners, Symms Trail Grant (\$22,000) or other sources approved by the County Commission.

8. Washoe County School District will:

A. Seek potential funding from grant sources to aid in education program development.

B. Utilize the new State and local Science Standards in the planning and design of the interpretive area.

C. Allocate time for science coordinator and outdoor specialist to cooperatively work with the Audubon Society in the development and planning of interpretive educational programs.

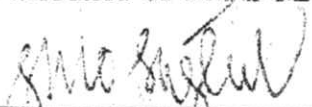
9. Nothing in this MOU will be construed as affecting the authorities of the participants or as binding beyond their respective authorities or to require any of the participants to obligate or expend funds in excess of available appropriations.

10. The participants will review this MOU at least every five years to determine its adequacy, effectiveness and continuing need. If all participants agree there is a continuing need, it may be extended or renewed.

11. The terms of this MOU may be renegotiated at any time at the initiative of one or more of its participants, following at least 30 days notice to the other participants.

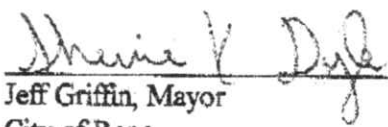
12. This MOU may be canceled at any time by one or more of its participants, following at least 30 days notice to the other participants.

FOR: BUREAU OF LAND MANAGEMENT




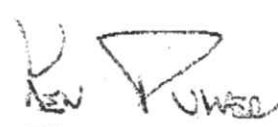
John O. Singlaub, Manager, Carson City Field Office
Bureau of Land Management

FOR: CITY OF RENO

 signing for
Jeff Griffin, Mayor
City of Reno

FOR: LAHONTAN AUDUBON SOCIETY


Jim Eidel, President
Lahontan Audubon Society

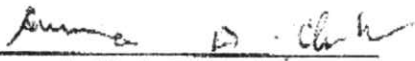

Ken Pulver, Past President
Lahontan Audubon Society

FOR: NEVADA DIVISION OF WILDLIFE

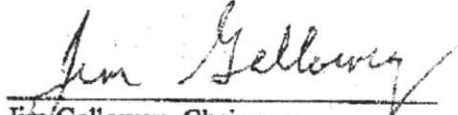
Gregg Thomas
signing for
Terry Crawford, Administrator
Nevada Division of Wildlife



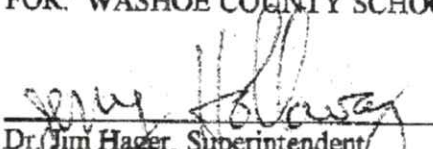
FOR: NEVADA OFFICE OF THE MILITARY


Drennan A. Clark, The Adjutant General
Nevada Office of the Military

FOR: WASHOE COUNTY


Jim Galloway, Chairman
Washoe Board of County Commissioners

FOR: WASHOE COUNTY SCHOOL DISTRICT


Dr. Jim Hager, Superintendent
Washoe County School District
