



APPENDIX A:

Management Authorities

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Appendix A – Part 1 Management Authorities

AUTHORITIES

The following is a partial list of the more pertinent Acts of Congress, Executive Orders, and treaties that are relevant to the administration and management of the Stillwater NWR Complex. The brief description provided is for informational purposes only. If specific information is necessary, the entire Act, Executive Order, or treaty should be referenced.

LEGISLATION

Antiquities Act of 1906 (16 U.S.C. 431-433; 34 Stat. 255.) The Act requires that a permit be obtained for examination of ruins, excavation of archaeological sites and the gathering of objects of antiquity on lands under the jurisdiction of the Secretaries of the Interior, Agriculture and the Army. This statute also authorizes the President to designate by public proclamation objects or areas of historic or scientific interest as national monuments. The Act authorizes the scientific investigation of antiquities (archaeological, historical, paleontological), subject to the stipulations outlined in permits issued to recognized educational and scientific institutions for the purpose of systematically and scientifically gathering data of scientific value. Paleontological resources fall under the authority of this Act also. (See Refuge Manual, Chapter 5, Part 16, Cultural Resources.)

Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469-469c; 74 Stat. 220), as amended. This Act amends the Reservoir Salvage Act of 1960 to expand its provisions to the preservation of historic and archaeological data in all Federal or Federally assisted or licensed construction projects that might otherwise be lost. This Act directs Federal agencies to notify the Secretary of the Interior whenever they find a Federal or Federally assisted, licensed or permitted project may cause loss or destruction of significant scientific, prehistoric, or archaeological data. Funds may be appropriated, donated, and/or transferred for the recovery, protection, and preservation of such data. Section 14 directs “The Secretaries of the Interior, Agriculture, and Defense . . . to (a) develop plans for surveying lands under their control to determine the nature and extent of archaeological resources on those lands; (b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archaeological resources”; (See Refuge Manual, Chapter 5, Part 16, Cultural Resources.)

Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa-470ee; 93 Stat. 721). This Act strengthens and expands the protective provisions of the Antiquities Act of 1906 regarding archaeological resources. It replaces the 1906 Act's permitting procedures for archaeological research. (See Refuge Manual, Chapter 5, Part 16, Cultural Resources.)

Bald and Golden Eagle Protection Act of 1972 (16 U.S.C. 668-668d; 54 Stat. 250), as amended. This Act prohibits the taking, possession, sale and transport of bald eagles and golden eagles except in certain circumstances and pursuant to regulations issued by the Secretary of the Interior.

Black Bass Act of 1926 (16 U.S.C. 851-856; 44 Stat. 576), as amended. This Act prohibits the importation or transportation in interstate or foreign commerce of black bass and other game fish in violation of foreign, State, or other law, or the purchase of such fish.

Clean Air Act (1970) and 1977 Amendments (42 U.S.C. 1857-1857f; 69 Stat. 322, and 91 Stat. 685). This Act and its amendments charge Federal land managers with direct responsibility to protect the "air quality and related values" of lands under their control. These values include fish, wildlife, and their habitats. The 1977 amendments establish Class I, II, and III areas where the increase of sulfur dioxide and particulate matter is to be restricted. Mandatory Class I Federal lands include all wilderness areas which exceed 5,000 acres and which were in existence on the date of enactment of the Clean Air Act Amendment of August 7, 1977.

Clean Water Act (1987) and Major Amendments (33U.S.C. 1251-1387). This act and its amendments has as its objective the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters. Two goals also were established in the 1972 legislation: zero discharge of pollutants and water quality that is both "fishable" and "swimmable". Section 404 charges the U.S. Army Corps of Engineers with regulating discharge of dredge or fill material into waters of the United States, including wetlands. Section 401 of the Act requires that federally permitted activities comply with the federal Clean Water Act, state water quality laws, and any other appropriate state laws.

Endangered Species Act of 1973 (16 U.S.C. 1531- 1543; 87 Stat. 884), as amended. This Act provides for the conservation of threatened and endangered species of fish, wildlife and plants by Federal action and by encouraging the establishment of state programs. It provides for the determination and listing of endangered and threatened species and the designation of critical habitats. Section 7 of the Act requires refuge managers to perform internal consultation before initiating projects which affect or may affect endangered species.

Truckee-Carson-Pyramid Lake Water Rights Settlement Act of 1990 (Title II of P.L. 101-618; 16 U.S.C. 614 nt 104; Stat 3307). Title II of this Act authorized and directed the Secretary of the Interior to acquire sufficient water and water rights to sustain a long-term average of 25,000 acres of primary wetland habitat in designated Lahontan Valley wetlands. It also expanded the boundary of Stillwater NWR and identified four purposes for which the refuge is to be managed: (A) maintaining and restoring natural biological diversity within the refuge; (B) providing for the conservation and management of fish and wildlife and their habitats; (C) fulfilling the international treaty obligations of the United States regarding fish and wildlife; and (D) providing opportunities for scientific research, environmental education, and fish and wildlife oriented recreation. The Act also authorized the Secretary of the Interior to recommend to Congress a boundary revision for Stillwater NWR, for which the Act identified criteria. Additional provisions of the Act addressed other water management issues related to the Newlands Irrigation Project.

Federal Aid in Fish Restoration and Management Projects Act of 1950 (16 U.S.C. 777-777k; 64 Stat. 430), as amended. This Act, also known as the Dingell-Johnson Act, provides Federal aid to the states for sport fish restoration. Federal funds from an excise tax on sport fishing tackle are provided to States on a matching basis (75/25) for land acquisition, research, development, and management projects.

Federal Aid in Wildlife Restoration Act of 1937 (16 U.S.C. 669-669i; 50 Stat. 917), as amended. This Act, commonly known as the Pittman-Robertson Act, provides Federal aid to the states for wildlife restoration work. Federal funds from an excise tax on sporting arms and ammunition are provided to States on a matching basis (75/25) for land acquisition, research, development, and management projects.

Federal Insecticide, Fungicide, and Rodenticide Act of 1947 (7 U.S.C. 136-136y; 86 Stat. 975), as amended. Public Law 92-516, approved October 21, 1972, amended the Federal Insecticide, Fungicide, and Rodenticide Act of June 25, 1947 (61 Stat. 163) and established under the Administrator of the Environmental Protection Agency a program for controlling the application of pesticides to assure greater protection to man and the environment.

Federal Land Policy and Management Act of 1976 (43 U.S.C. sections; 90 Stat. 2743. Public Law 94-579, approved October 21, 1976, constitutes an "Organic Act" for the Bureau of Land Management, Department of the Interior. Among other things, it establishes new procedures for creating, modifying, and terminating withdrawals and reservations of public lands. New withdrawals of public lands for refuge purposes are subject to withdrawal procedures of the Act; however, lands so added cannot be removed from the system except by Act of Congress pursuant to the National Wildlife Refuge System Administration Act of 1966.

Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471-535, and other U.S.C. sections; 63 Stat. 378), as amended. The Act, as amended several times, provides for management and disposal of government surplus property (excess property not required for the needs of any Federal agencies) and excess property (property under the control of any Federal agency which is not required for its needs). Public law 94-519, approved October 17, 1976

(90 Stat. 2451), provided major changes to section 203 of the act (40 U.S.C. 484) regarding procedures for disposal of surplus property.

Federal Noxious Weed Act of 1974 (U.S.C 2801-2813). This Act defines the duties of Federal agencies, and requires that each Federal agency establish and fund an undesirable plant management program, complete and implement cooperative agreements with State agencies, and establish integrated pest management systems to control invasive species.

Federal Water Pollution Control Act Amendment of 1972 (33 U.S.C. 1251-1265, 1281-1292, 1311-1328, 1241-1345, 1361-1376) 86 Stat. 816. The amendments to the Clean Water Act (P.L. 95-217, which amends the Clean Water Act P.L. 92-500), established criteria and performance standards for the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters.

Fish and Wildlife Act of 1956 (16 U.S.C. 742a- 742j; 70 Stat. 1119), as amended. Public Law 84-1024 initially established the Fish and Wildlife Service under the Assistant Secretary for Fish and Wildlife and a Commissioner for Fish and Wildlife. The Service consisted of the Bureau of Sport Fisheries and Wildlife and a Bureau of Commercial Fisheries, each having a Director. In 1970, the Bureau of Commercial Fisheries was transferred to the Department of Commerce. (See Refuge Manual, Chapter 1, Part 2, History of Fish and Wildlife Service, for details.) The Act was amended by Public Law 93-271 to abolish the office of Commissioner and establish the U.S. Fish and Wildlife Service under a Director. Under this Act, the Secretary is authorized to take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities and acquisition by purchase or exchange of land and water or interests therein. The Act also authorizes the Service to accept gifts of real or personal property for its benefit and use in performing its activities and services. Such gifts qualify under Federal income, estate, or gift tax laws as a gift to the United States.

Fish and Wildlife Coordination Act of 1934 (16 U.S.C. 661-666c; 48 Stat. 401), as amended. Public Law 73-121 authorizes the cooperation with other Federal or state agencies and others in the development, protection, rearing, and stocking of fish and wildlife and controlling losses. It also authorizes studies to prevent losses and to enhance fish and wildlife at Federal water resource projects and the use of project lands for wildlife by states and/or the Service (in cases where such lands have value for the national migratory bird management program). Finally, it authorizes Federal water resource agencies to acquire lands specifically for fish and wildlife in connection with water resource projects.

Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742a; 16 U.S.C. 742f, 16 U.S.C. 742i; 92 Stat. 3110). Public Law 95-616 was passed to improve the administration of fish and wildlife programs and amends several earlier laws including the Refuge Recreation Act, the National Wildlife Refuge System administration Act, and the Fish and Wildlife Act of 1956. It authorizes the Secretary to accept gifts and bequests of real and personal property on behalf of the United States.

Geothermal Steam Act, Section 1013(c) (30 U.S.C. 1001-1021) prohibits geothermal leasing of refuges. Within an approved refuge boundary, the Geothermal Steam Act requires that any geothermal leases that existed leases on Public Land prior to the establishment of an approved refuge boundary or that existed on nonFederal lands prior to their acquisition will remain valid through the duration of the lease.

Historic Sites, Buildings and Antiquities Act of 1935 (16 U.S.C. 461-467; 49 Stat. 666), as amended. This Act of August 21, 1935, also popularly known as the Historic Sites Act, as amended by Public Law 89-249, October 9, 1965 (79 Stat. 971), declares it a national policy to preserve historic sites and objects of national significance, including those located on refuges, for public use. It provides procedures for designation, administration, and protection of sites, and establishes an advisory board. Among other things, national landmarks are designated under authority of this Act, and as of September 1988, 31 national wildlife refuges contained such sites. (See Refuge Manual, Chapter 5, Part 16, Cultural Resources.)

Lacey Act of 1900 (16 U.S.C. 667E, 701; 18 U.S.C. 42-44; 62 Stat. 285), as amended. This Act provides that the responsibilities of the Department of the Interior include preservation, distribution, introduction, and restoration of game birds and other wild birds. It authorizes regulations for the introduction of American or foreign "birds or animals" into new locations and provides criminal penalties for the interstate transportation of wildlife taken in violation of state, Federal, or foreign laws. Also amended by Executive Order 11987, below.

Land and Water Conservation Fund Act of 1965, (16 U.S.C. 460L-4 to 460L-11; 78 Stat 897), as amended. This Act provides funding through receipts from the sale of surplus Federal land, appropriations from oil and gas receipts from the outer continental shelf, and other sources for land acquisition under several authorities.

Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-715r; 45 Stat. 1222), as amended. The Bird Conservation Commission which consists of the Secretaries of the Interior (chairman), Agriculture, and Transportation, two members from the House of Representatives, and an ex-officio member from the state in which a project is located. The Commission approves acquisition of land and water, or interests therein, and sizes the prices for acquisition by the Secretary for sanctuaries or for other management purposes. Under this Act, to acquire lands, or interests therein, the state concerned must consent to such acquisition by legislation. Such legislation has been enacted by most states.

Migratory Bird Hunting and Conservation Stamp Act of 1934 (16 U.S.C. 718-718h; 48 Stat. 451), as amended. Public Law 73-124, also known as the Duck Stamp Act, requires waterfowl hunters 16 years of age and older to possess a duck stamp, authorizes the acquisition of lands or interests in lands for waterfowl production areas, and prescribes the use of duck stamp net revenues to acquire migratory bird refuge areas under provisions of the Migratory Bird Conservation Act. As amended, the Act authorizes the sale of duck stamps at refuges as well as other locations. Monies derived from the sale of the stamps are placed in a fund known as the Migratory Bird Conservation Fund, and are supplemented by advance appropriations under the Wetlands Loan Act of 1961, as amended. Approval of the Governor or the appropriate state agency is required for purchases under the Act using the fund.

Migratory Bird Treaty Act of 1918, (16 U.S.C. 703-712; 40 Stat. 755), as amended. This Act implements treaties with Great Britain (for Canada), Mexico, Japan, and the Soviet Union for the protection of migratory birds which is designated by this Act as a Federal responsibility. The Act is the basis for setting and enforcing hunting seasons and regulations for migratory birds. It authorizes the Secretary to close areas, Federal or non-Federal, to the hunting of migratory birds.

National Environmental Policy Act of 1969, (43 U.S.C. 4321-4347; 83 Stat. 852). This Act requires the preparation of an environmental impact statement for major Federal actions significantly affecting the quality of the human environment. An impact statement must include impacts of the proposed action as well as of alternatives, including no action. Section 101 (b) “. . .” It is the continuing responsibility of the Federal government to use all practicable means . . . to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may: (4) preserve important historic, cultural, and natural aspects of our national heritage . . .” Regulations for implementation of the National Environmental Policy Act are found in 40 CFR Parts 1500-1508 (1978). (See Refuge Manual, Chapter 4, Part 5, National Environmental Policy Act Compliance.)

National Historic Preservation Act of 1966, (NHPA) (16 U.S.C. 470-470b, 470c-470n; 80 Stat. 915; 90 Stat. 1319), as amended. Public Laws amending this Act include 89-665, 94-422, 94-458, and 95-515. These Acts are far-reaching and greatly expand Federal policy on archaeological and historic resources. Historic preservation is defined as the protection, rehabilitation, restoration and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, and culture, including encouraging preservation not only on the national level, but state and local levels. They expand the National Register of Historic Places beyond the scope of the National Historic Landmark program to include resources of state and local significance. The Acts authorize matching grants to states and the National Trust for Historic Preservation for acquisition and development of properties listed in the National Register and for development of historic preservation planning programs.

Section 2 asserts, “it shall be the policy of the Federal Government. . . (a) to provide leadership in the preservation of the prehistoric and historic resources of the United States; (b) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations.” (See Refuge Manual, Chapter 5, Part 16, Cultural Resources.)

Section 106 of NHPA - “The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking . . . shall take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register.”

Section 110(a)(2) of NHPA - “Each Federal agency shall establish . . . a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties.”

National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee; 80 Stat. 927), as amended. Public Law 89-669 defines the National Wildlife Refuge System as including wildlife refuges, areas for the protection and conservation of fish and wildlife which are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas. The Secretary is authorized to permit any use of an area provided such use is compatible with the major purposes for which such area was established. The purchase consideration for rights-of-way go into the Migratory Bird Conservation Fund for the acquisition of lands. By regulation, up to 40 percent of an area acquired for a migratory bird sanctuary may be opened to migratory bird hunting unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the species. The Act requires an Act of Congress for the divestiture of lands in the system, except (1) lands acquired with Migratory Bird Conservation Commission funds, and (2) lands can be removed from the system by land exchange, or if brought into the system by a cooperative agreement then pursuant to the terms of the agreement.

The National Wildlife Refuge System Improvement Act of 1997, the most recent amendment to the National Wildlife System Administration Act, formalized the mission of the Refuge System. This mission is to conserve fish, wildlife, and plants and their habitats. The Act clarified the wildlife-first doctrine of refuges, identified several Secretarial directives . . .”

Native American Graves Protection and Repatriation Act (NAGPRA) (P.L. 101-601; 25 U.S.C. 3002; 104 Stat. 3050) November 16, 1990. This Act provides protection of Native American graves, and for other purposes;” clarifies the right of ownership of Indian, Alaska Native, and Native Hawaiian (Native American) human remains and artifacts, including funerary objects, religious artifacts, and objects of cultural patrimony, found on Federal or tribal lands; establishes conditions for the excavation or removal of Native American human remains or cultural artifacts, including the consent of the appropriate tribe or Native American organization; establishes notification requirements for the inadvertent discovery of Native American human remains or cultural artifacts on federal or tribal lands; establishes criminal penalties for the sale, purchase, or transport of Native American human remains or cultural artifacts without a legal right of possession; directs federal agencies and museums receiving federal assistance to identify the geographic and tribal origins of human or cultural artifacts in their collections, and require the return of the remains or artifacts to the appropriate tribe or Native American organization upon request; establishes a Department of Interior advisory committee to review the identification and repatriation processes for Native American human remains and cultural artifacts held by federal agencies and federally assisted museums; and establishes civil penalties for museums failing to comply with requirements of this act.

Refuge Improvement Act of 1997 is the first "organic" act for the National Wildlife Refuge System. The Act amends portions of the National Wildlife Refuge System Administration Act and the Refuge Recreation Act, and reiterates into law Executive Order 12996. The Refuge System Improvement Act requires that comprehensive conservation plans be completed for all refuges within a 15-year period, and requires that refuges be managed according to these plans. The act also requires public involvement in the development of the plans. This act defines a unifying mission for the Refuge System, calls for enhanced consideration of certain wildlife-dependent public uses when compatible, and outlines a specific process by which compatibility determinations should be made.

Refuge Recreation Act of 1962 (P.L. 87-714; 16 U.S.C. 460k-4601-4; 76 Stat. 653), as amended. This Act authorizes the Secretary of the Interior to administer refuges, hatcheries, and other conservation areas for recreational use, when such uses do not interfere with the areas' primary purposes. It authorizes construction and maintenance of recreational facilities and the acquisition of land for incidental fish and wildlife oriented recreational development or protection of natural resources. It also authorizes the charging of fees for public use.

Refuge Revenue Sharing Act of 1935 (16 U.S.C. 715s; 49 Stat. 383), as amended. This Act provides for the sharing with counties of revenues from areas solely or primarily administered by the Service. For lands purchased by the Service, the greatest of the following amounts is paid to the counties; 75 cents per acre, or three-fourths of 1 percent of the appraised value of the land, or 25 percent of the net receipts of revenue produced from the land. For Service lands withdrawn from the public domain, the payments to the counties remain at 25 percent of the net receipts. These payments are in lieu of taxes. The Act authorizes appropriations to make up deficiencies if there is insufficient money in the funds to make the payments to the counties.

Refuge Trespass Act of 1909 (18 U.S.C. 41; 62 Stat. 686), as amended. The Act of June 25, 1948, consolidated penalties and provisions of various Acts from 1905 through 1934 which make it unlawful (except in compliance with rules and regulations), to hunt, trap, capture, willfully disturb, or kill any bird or wild animal. It is unlawful to take or destroy the eggs of any such bird or fish on any lands or waters which are set apart or reserved as sanctuaries, refuges, or breeding grounds for such bird, fish or animals under any law of the United States, or willfully injure, molest or destroy any property of the United States on any such lands or waters. The Act specifies a maximum fine of \$500 and/or imprisonment for not more than six months.

Solid Waste Disposal Act of 1965 (42 U.S.C. 6901-6987; 90 Stat. 2795). The Act established the development of recommended guidelines (sec. 209) for solid waste recovery, collection, separation, and disposal systems, and the Applicability of Solid Waste Disposal Guidelines to Executive Agencies. The reference to the Secretary in this Act means the Administrator of the Environmental Protection Agency.

Wilderness Act of 1964 (16 U.S.C. 1131-1136; 78 Stat. 890). The Act directs the Secretary of the Interior to review, within ten years, every roadless area of 5,000 acres or more and every roadless island regardless of size within the National Wildlife Refuge System and to recommend to the President the suitability of each such area. A detailed discussion of this Act may be found in Refuge Manual, Chapter 6, Part 9.

Wildlife Conservation - Transfer of Certain Real Property (16 U.S.C. 667b). Public Law 80-537 (1948) provides, upon request, that real property which is under the jurisdiction or control of a Federal agency and no longer required by that agency can be transferred as excess land, without reimbursement, to the Department of the Interior if suitable for migratory bird management purposes. It also authorizes the transfer of these same types of lands to state conservation agencies for management of wildlife other than migratory birds.

EXECUTIVE ORDERS

Executive Order 11593 (1971). Protection and enhancement of the cultural environment. This order directs Federal agencies to inventory historic, archaeological, and paleontological properties for inclusion on the National Register of Historic Places and to adopt policies that would contribute to the protection of such resources on non-Federal lands. (See Refuge Manual, Chapter 5, Part 16, Cultural Resources, for details.)

Executive Order 11643 (1972), amended by **Executive Orders 11507 and 11282**. Prevention, control, and abatement of environmental pollution at Federal facilities. This Order requires Federal agencies to comply with Public Law 92-500 (Federal Water Pollution Control Act Amendments) and gives the details for complying.

Executive Order 11752 (1973), supersedes **Executive Orders 11507 and 11282**. Prevention, control, and abatement of environmental pollution at Federal facilities. This Order requires Federal agencies to comply with Public Law 92-500 (Federal Water Pollution Control Act Amendments) and gives the details for complying.

Executive Order 11870 (1973), amending Executive Order 11643. This amendment to Executive Order 11643 allows for the experimental use of sodium cyanide for predator control programs on public lands.

Executive Order 11917 (1976), amending Executive Order 11643. Authorizes the head of an agency to authorize use of sodium cyanide in the M-44 device on Federal lands subject to restrictions prescribed by the Environmental Protection Agency, except that use is prohibited in areas where endangered or threatened species might be adversely affected, areas of the National Wildlife Refuge System, and prairie dog towns.

Executive Order 11987 (1977). Exotic organisms. This Order states that Federal executive agencies shall, to the extent permitted by law, restrict the introduction of exotic species into the natural ecosystem on lands and waters that they own, lease or hold for purposes of administration.

Executive Order 11988 (1977). Floodplain management. Each Federal agency shall provide leadership and take action to reduce the risk of flood loss and minimize the impact of floods on human safety, and preserve the natural and beneficial values served by floodplains.

Executive Order 11990 (1977). Protection of wetlands. This Order stresses avoidance to the extent possible, of long- and short-term adverse impacts associated with the destruction and modification of wetlands, and the avoidance of direct or indirect support of new construction in wetlands wherever there is a practicable alternative.

Executive Order 12196 (1980). Occupational safety and health programs for Federal employees. All employing units and authorities of the Federal government shall cooperate with the Secretary of Labor to help him/her adopt safety and health programs.

Executive Order 12996. (1996) Management and General Public Use of the National Wildlife Refuge System

Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970, as amended by Executive Order 11991, May 24, 1977: Requires Federal agencies to monitor, evaluate, and direct their policies, plans, and programs to protect and enhance the Nation's environmental quality in order to sustain and enrich human life.

Executive Order 13007, 1996. This executive order charges Federal Agencies to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of such sites.

Invasive Species Executive Order 13112, 1999. This Executive Order (EO) directs Federal agencies to use their authorities to prevent the introduction of invasive species, to control, monitor and to restore native species. The EO establishes a Federal interagency Invasive Species Council (Council), co-chaired by the Secretaries of the Interior, Agriculture, and Commerce and includes State, Treasury, Defense, Transportation and the Environmental Protection Agency. The Council will be directed to create an invasive species management plan. The Secretary of the Interior will establish an advisory committee to provide information and advice for consideration by the Council including recommended plans and actions at the local, state, regional and ecosystem-based levels to achieve the goals of the Management Plan. The Council will act in cooperation with states, tribes, scientific, agricultural organizations, conservation groups and other stakeholders.

Executive Order 11593. The executive order charges Federal agencies to provide leadership in preserving, restoring, and maintaining the Nation's historic and cultural environment.

Executive Order 5606, April 22, 1931. The executive order established Fallon NWR ... "as a refuge and breeding ground for birds and wild animals."

Executive Order 1819, September 4, 1913. This executive order established Anaho Island NWR as a " . . . preserve and breeding ground for native birds.

MAJOR TREATIES

Convention between the United States and the United Mexican States for the Protection of Migratory Birds and Game Mammals. February 7, 1936. Calls for a system for protecting certain migratory birds in the United States and Mexico to be adopted. Allows, under regulation, the rational use of certain migratory birds. Provides for enactment of laws and regulations to protect birds by establishment of closed seasons and refuge zones. Prohibits killing of insectivorous birds, except under permit when harmful to agriculture. Provides for enactment of regulations on transportation of game mammals across the United States-Mexican border.

Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (United States and 17 other American Republics). April 28, 1941. Protects and preserves in their natural habitat representatives of all species and genera of their native flora and fauna, including migratory birds, and protects regions and natural objects of scientific value. The signatory nations agreed to take certain actions to achieve these objectives, including the adoption of "appropriate measures for the protection of migratory birds of economic or aesthetic value or to prevent the threatened extinction of any given species"

Convention on Biological Diversity. December, 29 1993. Outlines provisions for conserving biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

Convention of Wetlands of International Importance especially as Waterfowl Habitat. November 10, 1986. Maintains a list of wetlands of international importance and works to encourage the wise use of all wetlands in order to preserve the ecological characteristics from which wetland values derive. The Convention is self-implementing, with the U.S. Fish and Wildlife Service providing U.S. secretariat responsibilities and lead for Convention implementation.

Convention between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment. May 23, 1972. Emphasizes activities related to air and water pollution, enhancement of urban environment, preservation of nature, establishment of preserves, and arctic and subarctic ecological systems. The agreement was most recently renewed in 1987 and is renewable every five years.

Convention on Protection of World Cultural and Natural Heritage. November 18, 1972. For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international co-operation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment. September 19, 1974. Provides for the protection of species of birds which are common to both countries, or which migrate between them by (1) enhancement of habitat, (2) exchange of research data, and (3) regulation of hunting.

Convention between the United States and Great Britain (for Canada) for the Protection of Migratory Birds. October 20, 1916. Adopted a uniform system of protection for certain species of birds which migrate between the United States and Canada, in order to assure the preservation of species either harmless or beneficial to man. Sets certain dates for closed seasons on migratory birds. Prohibits hunting insectivorous birds, but allows killing of birds under permit when injurious to agriculture.

Appendix A – Part 2

SUMMARY OF MANAGEMENT DIRECTION FOR STILLWATER NATIONAL WILDLIFE REFUGE As Defined by: Establishing Legislation, Refuge System Mission and Goals, Service Policy, and International Treaties

INTRODUCTION

Management direction for any given national wildlife refuge (refuge) is primarily determined by its purposes as defined in the refuge's establishing authority (either in legislation or executive order) and the mission of the National Wildlife Refuge System (Refuge System) as defined in the Refuge System Improvement Act of 1997 and Executive Order 12996. It is further clarified and delineated by U.S. Fish and Wildlife Service (Service) policy, legislation, executive orders, and international treaties. Comprehensive conservation planning provides an opportunity to step back and examine the focal point toward which a refuge's management should be directed. One of the major objectives of comprehensive conservation planning is to ensure that management of refuges reflect Service policy, Refuge System goals, and purposes for which individual refuges were established (USFWS Manual:602 FW 1.1, 1.3).

This report provides an examination of the management direction of Stillwater National Wildlife Refuge (Stillwater NWR) as delineated by Stillwater NWR purposes, Refuge System mission and other provisions of the Refuge System Improvement Act, other legislation, Executive Orders, Service policy, and international treaties.

Stillwater NWR Purposes

Management of individual refuges is primarily dictated by the purposes for which the refuge was established and the mission of the Refuge System. The Truckee-Carson-Pyramid Lake Water Settlement Act of 1990 (Title II of Public Law 101-618) established Stillwater NWR (§206(b)(2)) to be managed for the purposes of:

- (A) maintaining and restoring natural biological diversity within the refuge;
- (B) providing for the conservation and management of fish and wildlife and their habitats within the refuge;
- (C) fulfilling the international treaty obligations of the United States with respect to fish and wildlife; and
- (D) providing opportunities for scientific research, environmental education, and fish and wildlife oriented recreation.

Refuge System Mission

The Refuge System Improvement Act, enacted on October 9, 1997 (16 USC 668dd(a)), orders that the mission of the Refuge System is:

to preserve a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

Refuge System Goals

Goals of the Refuge System, set by Service policy, more narrowly define the mission of the national network of refuges and are to be used as a guide for developing individual refuge unit goals. The goals of the Refuge System (601 FW 1.8) are to:

- (A) Conserve, restore where appropriate, and enhance all species of fish, wildlife, and plants that are endangered or threatened with becoming endangered;
- (B) Perpetuate migratory bird, interjurisdictional fish, and marine mammal populations;
- (C) Conserve a diversity of fish, wildlife, and plants; and
- (D) Conserve and restore, where appropriate, representative ecosystems of the United States, including the ecological processes characteristic of those ecosystems; and
- (E) Foster understanding and instill appreciation of native fish, wildlife, and plants and their conservation by providing the public with safe, high-quality, and compatible wildlife-dependent recreational uses. Such uses are hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

DISCUSSION OF MANAGEMENT DIRECTION BY PURPOSE

A. Restoration and Maintenance of Natural Biological Diversity

The first listed purpose of Stillwater NWR is to restore and maintain natural biological diversity within the refuge. Direction provided by this purpose is reinforced by the Refuge System Improvement Act, Executive Order 12996, Service policy, and international treaties.

This purpose generally fits within the framework of the mission of the Refuge System as defined in the Refuge System Improvement Act and Executive Order 12996. The Refuge System Improvement Act also directs the Secretary of the Interior to ensure that the biological integrity and environmental health of the Refuge System is maintained (16 USC 668(a)(3)(B)), which is closely linked to the restoration and maintenance of natural biological diversity. A major goal of comprehensive conservation planning on refuges is to ensure that refuges are managed in part to maintain and, where appropriate, restore the ecological integrity of each refuge (602 FW 3.3.A). The Refuge System Improvement Act directs the Secretary to plan and direct the continued growth of the Refuge System in part to contribute to the conservation of ecosystems of the United States. This is relevant to the authority provided by Public Law 101-618 (§206(b)(5)) to revise the boundary of Stillwater NWR as may be appropriate to carry out the purposes of the refuge (i.e., expansion of Stillwater NWR to better restore and maintain the area's natural biological diversity, which would also contribute to the above provision of the Improvement Act). Furthermore, one of the goals of the Refuge System is to conserve and restore, representative ecosystems of the United States, including the ecological processes characteristic of those ecosystems, which is consistent with the purpose of restoring and maintaining the natural biodiversity on Stillwater NWR.

It is the policy of the Service that individual refuge units be managed for a natural diversity of native fish, wildlife, and habitats to the extent that it does not conflict with the purposes for which the refuge was established (601 FW 3.14.B-C, 601 FW 3.15.B-C, 701 FW 1.3). When habitat has been lost in the area of a given refuge, densities of wildlife can be sustained at levels higher than what occurred naturally, so long as this does not cause or result in habitat degradation and disease problems (601 FW 3.14.D-E).

Specific to marsh and water management, it is the policy of the Service to manage marsh and water to meet the needs of the entire marsh community (USFWS 1982:6 RM 2.1), which also is complimentary with the management for a natural diversity within natural biological communities, as are the Service's marsh and water

management objectives. Wildlife- and habitat-oriented objectives for marsh and water management are: (A) to provide habitat for waterfowl, other migratory birds, and endangered or threatened species of plants and animals; (B) to maintain wildlife diversity in the marsh; and (C) to provide, enhance, and maintain habitat for indigenous species of wildlife and plants.

Service policy on the management of migratory birds also is complimentary with the purposes of restoring natural biological diversity on the refuge. To the extent that it does not conflict with refuge purposes, a natural diversity of migratory birds, including waterfowl, is to be emphasized. Service policy on non-waterfowl migratory birds directs that refuges be managed in a way that maintains these bird populations at levels consistent with their role in the ecosystem (USFWS 1982:7 RM 4.3), implying conditions that would occur naturally. Specific to waterfowl, Service policy in the Refuge Manual specifies that management of waterfowl on a refuge must be compatible with the purposes for which the refuge was established and meet general criteria for maintaining natural diversity, among other requirements (USFWS 1982:7 RM 3.1).

Most obligations of international treaties with respect to wildlife habitat emphasize the protection and restoration of natural ecosystems and the natural habitats of species receiving management attention: the migratory bird treaties with Japan and the [former] Soviet Union (1974 and 1976, respectively), Convention on Biological Diversity (1992), Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (1941), and Convention on Protection of World Culture and Natural Heritage (1973). These are discussed in more detail in a later section.

B. Conservation and Management of Wildlife and their Habitat

The second listed purpose of Stillwater NWR is to provide for the conservation and management of fish and wildlife and their habitat. This parallels the fundamental mission of the Refuge System, which is the conservation of fish, wildlife, plants, and their habitat (House Report 105-106). Wildlife can be conserved in a variety of ways, ranging from providing for the needs of a handful of species by maximizing the quality and juxtaposition of resources (high intensity management), to maximizing wildlife diversity through habitat alterations, to conserving a natural diversity of wildlife (i.e., natural biodiversity) by restoring natural habitat conditions, to protecting habitat through custodial maintenance (low intensity management). Therefore, the conservation of natural biological diversity is more specific than the conservation of fish, wildlife, and their habitat. Service policy directs that, where a refuge has multiple establishing purposes, the more specific purpose will take precedence in incidences of conflict (601 FW 1.15).

The second purpose of Stillwater NWR does not identify any particular direction on how wildlife and their habitat are to be conserved and managed on the refuge and thus it merely reaffirms the Refuge System's mission for all national wildlife refuges. Furthermore, there are a number of approaches that could be taken under "conserving and managing wildlife" that could conflict with other refuge purposes. However, focusing on the approximation of natural biodiversity (first purpose) would avoid this conflict. Service policy calls for the restoration and maintenance of natural diversity to the extent that this would not conflict with refuge purposes. Not only is the restoration of natural biodiversity a viable means to conserve and manage wildlife on the refuge, this approach parallels obligations outlined in international treaties (third purpose). Under the preferred alternative, wildlife and their habitat would be conserved and managed at Stillwater NWR (second purpose), and this will be done primarily by approximating as close as possible the natural diversity of fish, wildlife, plants, and their habitat on the Refuge (first purpose) and by fulfilling international treaty obligations with respect to fish and wildlife (third purpose). Nevertheless, flexibility would be maintained to allow managers to provide for the needs of particular species, when necessary, even if this would reduce natural biological diversity.

C. Fulfillment of International Treaties

The third listed purpose of Stillwater NWR is to fulfill international treaty obligations of the United States with respect to fish and wildlife.

The most well known international treaties are the migratory bird treaties. Most obligations of the migratory bird treaties relate to the protection of migratory birds through regulations on "taking." As such, most obligations are primarily relevant to hunting and law enforcement programs (e.g., hunting regulations). However, several

obligations included in the treaties with Japan and the former Soviet Union address habitat protection and management, and, therefore, are more generally applicable to wildlife management programs of individual refuges. Both of these treaties obligate the United State to protect and enhance the environment of migratory birds and prevent and abate the pollution and detrimental alteration of that environment. The most specific obligation with respect to refuges was outlined in the treaty with the former Soviet Union: establish refuges and other protected areas for the conservation of migratory birds and their environment, and manage such areas so as to preserve and restore the natural ecosystems (Article VII of Convention between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment, 1976).

With respect to habitat protection and management, the U.S. has the following obligations under the Convention on Biological Diversity (1992): to protect ecosystems and natural habitats, maintain viable populations of species in natural surroundings, restore degraded ecosystems, promote the recovery of threatened species, prevent the introduction of or eradicate exotic species that threaten ecosystems or species, manage uses in a way that is compatible with the conservation of biological diversity. An obligation that has relevance to the boundary revision assessment for Stillwater NWR is the establishment of a system of protected areas or areas where special measures need to be taken to conserve biological diversity.

The Convention on Wetlands of International Importance especially as Waterfowl Habitat (1971) obligates the U.S. to promote wise use of wetlands and, on appropriate wetlands, increase populations of birds ecologically dependent on wetlands.

One of the two purposes of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (1941) is "...to protect and preserve in their natural habitat representatives of all species and genera of their native flora and fauna, including migratory birds..."

An obligation of the U.S. under the Convention on Protection of World Culture and Natural Heritage (1973) is to protect, rehabilitate, and conserve natural features, natural areas, and habitat of threatened species that are of outstanding universal value from the standpoints of science, conservation, and aesthetics).

Given the emphasis of international treaties on the restoration and protection of natural ecosystems, the first and third purposes of Stillwater NWR appear to be complimentary and compatible.

D. Providing Opportunities for Scientific Research, Environmental Education, and Wildlife-oriented Recreation

The fourth listed purpose is to provide opportunities for scientific research, environmental education, and wildlife-oriented recreation. This purpose fits within the framework provided by the Refuge System Improvement Act, Executive Order 12996, Refuge System goals, Service purposes, and Service policy.

The Refuge System Improvement Act directs the Secretary of the Interior to recognize compatible wildlife-dependent recreational activities as priority general uses of the Refuge System, to give serious consideration to expand opportunities for these uses when they are compatible and consistent with sound principles of fish and wildlife management, and ensure that these uses receive more attention in planning and management within the Refuge system, among other directives (16 USC 668(a)(3)(H-J)).

The fifth listed goal of the Refuge System is:

Foster understanding and instill appreciation of native fish, wildlife, and plants and their conservation by providing the public with safe, high-quality, and compatible wildlife-dependent recreational uses. Such uses are hunting, fishing, wildlife observation and photography, and environmental education and interpretation (601 FW 1.8.E).

These provide clear direction for targeting wildlife-dependent recreation and education on Stillwater NWR. Service policy further emphasizes and clarifies this mission -- it is the policy of the Service that wildlife/wildland oriented public use be encouraged on refuges when funds are available to support such use and where such

activities are compatible with refuge purposes (USFWS 1985:8 RM 1.3). Service policy recognizes that through careful planning, the Service can protect fish and wildlife resources while providing substantial educational and recreational opportunities to the visiting public. However, special attention should be directed toward assuring that all public uses are compatible with the refuge's primary purposes (16 USC 668(d)(3), 603 FW 2). In the case of Stillwater NWR, public uses must be compatible with the restoration and maintenance of natural biological diversity, the conservation and management of fish and wildlife and their habitat, and the fulfillment of international treaty obligations with respect to wildlife.

Wildlife-dependent recreation is defined as "a use of a national wildlife refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation (602 FW 2.6.W). In accordance with compatibility and other requirements, and unless prohibited by statute or regulation, both nonconsumptive and consumptive uses are encouraged. Furthermore, Service policy states that any recreational activity permitted on a refuge will be managed to ensure high quality experiences.

Wildlife-dependent research refers to research projects that focus on aspects of wildlife ecology and management. The Service especially encourages research projects that have direct application to the management of Stillwater NWR, but also support research aimed at expanding the body of scientific knowledge about fish, wildlife, and their habitat. Priority will be given to studies that contribute to the enhancement, protection, use, preservation, and management of native wildlife populations and their habitats in their natural diversity (USFWS 1982:4 RM 6.1).

In recognition that natural and social science information is necessary for the proper management of refuges, it is Service policy to encourage research and management studies that produce new information upon which to base management decisions (USFWS 1982:4 RM 6). Service policy also allows refuges to be used for other scientific research when the research is compatible with the purposes of the refuge.

OVERRIDING MANAGEMENT DIRECTION FOR STILLWATER NWR

Public Law 101-618, Refuge System mission and goals, Service policy, and international treaties clearly spell out that the core mission of the Service with respect to Stillwater NWR is to restore and maintain natural biological diversity within the refuge and to provide opportunities for wildlife-oriented research, education, and recreation to the extent that they don't conflict with the restoration and maintenance of natural biological diversity.

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