

Carson Valley Conservation District USDA Service Center 1702 County Rd., Suite A Minden, NV 89423 775-782-3661

To: DCNR Re: Reporting Documents for 2018 Tuesday, September 18, 2018

The Carson River and surface water conveyance system

Annual Workplan

Flood Damage

State and Federal Partners

Emergency Planning

Where Do We Go From Here?

The Carson River: Within our district the Carson River is the main component of an amazing engineering feat that conveys surface water from the Carson River through a series of sloughs and ditches that enables us to irrigate about 50,000 acres of productive agriculture ground. Our producers and cooperators think of the river as part of a surface water conveyance system that has been operational for about 150 years. The county associates the river with a critical and major drainage infrastructures system. We believe that the river is both, and therefore deserves to be delineated as "Critical Infrastructure" for Agriculture, Natural Resources and Drainage.

There was a major battle over the term "Critical Infrastructure". If the river was determined to be critical infrastructure we could have applied for FEMA funding for repairs and debris removal after the recent flooding and high-water events. It has been determined by State Lands that the Carson River is NOT Critical Infrastructure. I suppose we could have guessed that from the complete lack of any type of maintenance, noxious weed control or repairs by State Lands in their portion of the Carson River, their intermittently submerged lands. We are somewhat puzzled by State Lands who manages by regulations and enjoys the benefits of our work which they don't pay a dime for, they just send squads of regulators out to find regulatory issues. Instead of help, we get regulations, reports, meetings and covert regulatory inspections, (see attached photos). This approach by the state just alienates property owners who have access to 98% of the river.

We also believe that the Carson River as it runs through rural areas is a "Working River" first and a "Living River" second. The river provides the basic component for productive agriculture, conservation, wildlife habitat, drainage and natural resource management; WATER. Because our district encompasses a large productive agricultural area we are acutely aware of issues that impact our cooperators and producers and the status of the river is at the top of everyone's list. Currently we lack a positive or constructive environment in which to do work. Since we deal with environmental issues, the most important environmental issue currently is the hostile working environment.

NRS 548.110 Legislative declaration: Need for conservation. It is hereby declared to be the policy of the Legislature to recognize the ever-increasing demands on the renewable natural resources of the State and the need to conserve, protect and develop such resources at such levels of quality as will meet the needs of the people of the State. It doesn't appear that we are following this stated goal. We are smack dab in the middle of a regulatory donnybrook.

How can we help conservation and natural resource management if we can't work with local property owners whose property abuts over 98% of the river frontage? This has become a real hot button issue considering the interaction of regulatory bureaucracies, the District and property owners. It has become a huge problem. The permissions required by the federal and state regulatory

bureaucracies to work in the river and benefit the submerged lands of Nevada are a "one-size-fits-all" policy that just doesn't address the needs of the surface water conveyance system's unique and specific needs. Hopefully a compromise solution can be found but after 2 years of dealing with the regulatory bureaucracy and the property owners it is my observation is that there is a war brewing just under the surface of what may appear to be day-to-day operations. Neither side wants to yield on their demands and requests.

This problem is way over my paygrade. I hope the state has an amazing negotiator who can bring both sides together while keeping the goals of conservation and natural resource management in reach. I will say it takes a long time, years in fact, to build the trust needed to access a working property to preform river work that benefits the property owner and the state directly. I haven't observed any real progress to make attaining these goals easier despite a few attempts to resolve the problem. We need a compromise solution for the good of the natural resources and conservation practices of the great State of Nevada. Our system has been working for 150 years but regulatory bureaucrats can bring that to a halt if the atmosphere regarding routine repairs and maintenance isn't returned to the way it was before the flooding.

Annual Workplan: CVCD continues to perform conservation and natural resource tasks mostly centered around the Carson River and the surface water distribution system. During some of the conflict negotiations the specter of the federally decreed Alpine Decree, the longest piece of federal litigation to date, was raised. After attempts to arrive at a compromise agreement with various regulatory agencies many, perhaps all, surface water users are willing to follow the conditions spelled out in the Alpine Decree and see the new "structure assessments" and "rent fees" by State Lands as unprecedented and unnecessary. The state directly benefits from the work the district and surface water users provide. The state does not manage noxious weeds per NRS 555, nor does it concern itself with channel capacity, debris removal, bank failures or degraded water quality due to sediment control issues. The river needs constant repairs and maintenance and the state regulators are making our ability to complete as many projects as possible difficult to impossible.

These are routine and historic tasks that have been done by the users for over 100 years. Suddenly there is an array or obstacles that prevents or punishes property owners and the district for preforming routine repairs and maintenance. There were no issues prior to the floods and we were able to work with, rather than against, state regulators.

The river runs on "River Time", not calendar or fiscal year time. There are many processes, permits and tasks that must be performed at specific times of the year, River Time. These aren't dates that repeat or can be accurately planned in a bureaucratic environment. The goals and objectives and timing of work must be performed "as needed".

These timing issues must be synchronized with the river's condition on any given day and we need the flexibility to respond to emergency situations without going through the whole spread of regulatory offices. Oddly enough the Army Corps has emergency procedures that allow emergency work, but the state doesn't have a well-defined and functioning process. These tasks can't be held to calendar dates. The paperwork load for routine repairs and maintenance are out of proportion with the work being done. Again, the state benefits but pays noting for the service. There needs to be some give on the part of the regulators. The property owners already work for the benefit of the state for free. They also provide access to the river for repairs and maintenance, or they did.

The district obtains funding for work from various sources and is always looking for more. We have attained the unenviable position of funding, projects and property owner permission for access but we're having trouble with the regulatory agencies which creates a highly frustrated and stressed out staff. Remember, the process used to work just fine prior to the flooding and it benefited the state directly.

The problems arise not just from language in permitting documents but also with uninformed or underinformed regulators who are being asked to perform tasks that they haven't been properly trained for. As a result, we must provide tremendous amounts of information and time regarding projects because the regulators who may understand their regulations very well, apparently don't understand how, why and when we work with property owners and the river.

This has caused some serious problems for us. We've spent decades cultivating trust from property owners and the regulators can, and may have, destroyed that trust and good will with one fell swoop of the pen or utterance of a phrase and it's happened. The egregious language in Right of Entry Permits has driven a wedge between the district and the property owners. The commando river inspections, (I have enclosed a copy of their clandestine inspection operations) that could have been handled with a phone call to the district, have caused a lot of problems. Is it necessary to have regulatory bureaucrats sneaking around in the riverbed looking for problems or possible violations? Aren't we supposed to work with property owners on conservation and natural resource preservation and enhancement? If the people responsible for the offensive spy work had contacted the district we could have investigated perceived problems and relayed explanations. We probably could have contacted the property owner and got the job done right without the cloak and dagger drama. We were left completely out of the process and we wonder why. Is this new policy? Work around districts rather than with districts? This move really damaged our rapport with property owners.

We can't become regulators, investigators or semi-regulators per our duties outlined as a "non-regulatory" subdivision of state government. We were set up to be the goodwill ambassadors for conservation and natural resources enhancement for the state because regulators aren't well liked by private property owners. Our loyalty lies with the property owners who use the river for their livelihood and who allow us to get repairs and maintenance done.

It requires years of a good working relationship to earn their trust. The last 2 years has put a tremendous strain on our relationship. I'd call it a major setback. In short, we will not be able to complete all our work due to the drastic disruption in our working relationship with property owners who have the necessary access to the river and staging for equipment and materials. The regulators sneaking around in the riverbed is the latest event in what is fast becoming a full-blown war between property owners and regulators. It doesn't have to be this way. The district is stuck in the middle powerless to resolve issues that would meet the goals of water quality, conservation and natural resource and habitat protection.

The aftermath of the 2 floods and high-water event have damaged the river and our working relationship with property owners.

Districts were formed so that property owners had a local source for information on the Farm Bill and projects to improve efficiency and increase production while conserving natural resources and repairing, maintaining or enhancing wildlife habitat. Our district is unique because access to the river is 98% private property controlled. The fact that we could not find a compromise for an open-ended Right of Entry Permit has pitted the regulators against the property owners and we don't know if we can fix that.

Despite all these obstacles we continue to have river projects under way. Talking to property owners reveals that they strongly believe that the federal decree trumps the onerous regulatory requirements and they are ready to provide monetary support for a law suit against the state to make the Alpine Decree the document they follow for routine repairs and maintenance of the surface water conveyance system. The lack of détente by the regulators has put us in a difficult position with property owners and may reduce our work and ultimately our income. The regulators get paid like clockwork. We on the other hand must scrounge around to find areas that need work, get the property owner's permission for access, find funding, get engineered plans and designs, go to meetings, facilitate bid walks, select a contractor, let the bid, supervise and oversee the work and report to the regulators. The current hostile environment has jeopardized our ability to work with property owners and ultimately reduce our income. This current disruption and damaged relationship is taking money away from us.

We ask that the regulators reconsider their one size fits all position and work with property owners to return us to the way routine repairs and maintenance was preformed prior to the flooding and high-water events.

Flood Damage: The river has flood damage, capacity and debris removal projects that we were not able to start or complete because the timing of the permitting and the river didn't coincide with one another and the property owners are afraid to either inform us of work for us to report or they just stopped maintenance projects that help a great deal with water quality and quantity and keep the surface water system working properly so surface water can be delivered

according to the Alpine Decree. The district stands ready to locate, prioritize and preform work on damaged banks, locate reduced channel capacity and debris removal along with noxious weed control. Considering the current atmosphere there is going to be a reduced scope of our work and some of this work will be happening approximately 2 years late.

State and Federal Partners: Our relationship with federal and state regulators not good. The post flooding events have placed us in the difficult position of trying to work with property owners and regulators, neither of which wants to give an inch in their positions regarding routine repairs and maintenance. This is a very bad situation for the district. We must try to work with both parties; unfortunately, neither side will give and try to come to a real compromise resolution. While time is on the side of the regulators, access to the river is controlled by the property owners. This is a formula for a perfect storm that could damage the river and natural resources in a big way. Can't someone from the regulators side understand the importance of having the property owners on board so that large projects can be ranked, planned, staged and completed using their private property? This has become a huge obstacle. The district can't do the projects identified as important by property owners and our emergency services without owner permission for access. This is completely avoidable if there is honest and sincere discussion between the two opposing sides working for a compromise. The district is stuck in the middle and our ability to provide conservation and natural resource projects is hanging in the balance. We need to resolve these issues, or the district will be forced to reduce staff and limit work to meetings, outreach, education, bus rides and tours of river projects that we used to be able to do. Once the district reduces staff because our project funding dries up we will become an outreach and education district. We want to be the most productive district in the state.

Emergency Planning: Our ability to conduct or even participate in discussion of emergency planning for river related flooding and high-water events has been severely hampered and perhaps even eliminated.

We conducted the series of workshops with the property owners, emergency services, the county and surface water users prior to the 2 floods and high-water events. These workshops were extremely useful and positive. In the current environment we may not be able to help like we did before the floods because the property owners are very unhappy with the current environment. The resulting identification of project sites and priorities established at these meetings allowed the county to pinpoint areas of concern and we were able to prevent more serious flooding, infrastructure damage and highway closures. Planning sessions with the property owners is very valuable to the district, the county and the state. Under the current atmosphere of opposing views on certain issues will make these planning sessions more difficult, maybe impossible, to organize with participation from either regulators or property owners.

<u>Where Do We Go From Here:</u> The district embarked on an ambitious workload after the flooding and high-water. We were able to organize and hold meetings with property owners regarding the river flooding. We identified and ranked projects based on the institutional knowledge of people who have made a living using the surface water conveyance system for multiple generations. This multigenerational knowledge was invaluable in identifying areas where to expect problems and this information was spot on. The district put these meetings together but we might not be able to do it again.

We did apply for and receive funding to do river work that involves bank repair and stabilization, bioengineering, debris removal. There is still a need for more projects that facilitate repairs and maintenance. The scheduling of this work based on the river's calendar has been covered. This work needs to be done at low flow times, whenever that may be. To try and hold us to a strict timeline is not realistic or productive. We need flexibility, so we can get in and get out as fast as possible, so we can do as many of these smaller projects as possible.

I know this has been stated several times but that is because it is a critical issue that needs to be addressed but it hasn't been addressed. Our ability to work with regulators is poor to adversarial. We received different or conflicting information doing a site tour of property damaged by the floods. The Army Corps representative told us we could recover upland property lost to the floods if we provided a quick description of the work to be done. The next time we were contacted by the Corps the requirements had changed drastically. Detailed information was required, and it couldn't be sent by email, it had to be sent through the U.S. Mail. Also, on this job walk a state regulator was trying to make

the project of recovering upland property lost to flooding into a dredging and mining operation that would require a nationwide permit and take a long time to acquire. Because we had located an entity that was willing to remove channel choking material and take it to their pit, out of the flood zones, the state regulator tried to persuade the Army Corps rep that we were "mining" material and would need a much more complex and time-consuming permit before we could remove the material. The state regulators weren't helping us or the property owner, they were making it more difficult and costly to do the job. Luckily the rep from the Corps had enough good sense to not follow the advice of the state regulator and make upland recovery a mining project.

This was probably the tipping point for the property owners. They checked with the Federal Water Master and per the Alpine Decree they could perform routine repairs and maintenance to ensure that the correct amount of water was delivered to the water rights owners at their specific time for delivery. In fact, it was mandated in the decree. The Alpine Decree is very specific about water rights and the surface water conveyance system and since the water users had been doing routine repairs and maintenance without regulators from State Lands trying to do assessments so that State Lands could charge rent for structures on the submerged land of Nevada. This really was the straw that broke the camel's back. Never had the state tried to collect rent from river structures in the surface water conveyance system like they collect for buoys and docks at the Lake. This was truly insult to injury. If the intended outcome was to completely alienate water rights users, the operation was a resounding success. State Lands still had people running around the riverbed or using satellite photos trying to "appraise or assess" the rent for river structures.

The relationship between the district, property owners, water rights users and regulators are at an all-time low. If we can't arrive at a compromise that works for everyone I'd anticipate more problems that will cause the district to lose time and money trying to repair the damage done these past two years. This issue must be resolved.

Luckily, we have a good relationship with non-regulatory bodies who can provide funding and help with conservation, natural resource management and wildlife habitat. We treat noxious weeds for the county and we were invited into the

surface water drainage program. Unfortunately, these friendly projects don't address the bigger river work that needs to be done as soon as possible. We have done a bid walk for three major river projects. We have clearance work to do and bioengineering on private property to repair some of the flood damage and debris removal.

The NDOT work is fully permitted and work is underway and may continue for a few more years.

I realize this isn't a standard report, but we have a serious problem, one that may determine the future of the district. Due to the animosity between property owners, water users and regulators this issue keeps rising to the top of our list of things that need attention. Unfortunately, we don't have the juice to prompt a meeting between opposing sides. The Alpine Decree is becoming the guiding document for many land owners and water users who believe the federal decree trumps everything else currently in play.

We will continue to provide outstanding work for people interested in conservation and natural resource preservation and enhancement. We do participate in education and outreach through River Wranglers, Leadership Douglas County, the High School College and Career Expo and Range Camp along with other points of contact with property owners while doing our scheduled field work. Ms. Bettina Sherer from DCNR has attended almost every one of our meetings. She is a representative of the state regulators and has heard the discussion on the problems mentioned in this report, but she hasn't offered any help or suggestions how to possibly resolve the conflict. Perhaps the Conservation Commission could facilitate a solution? We just want to get back to the way things were before the flooding and high-water events that have damaged the river and surface water conveyance system. Water is and always will be the top natural resource issue in the state and eventually the country. It merits a solution that would benefit the people of the state of Nevada.

What is the correct pathway to follow for an equitable solution to the problems of regulators, property owners, water users, the state and the district? This isn't a localized problem. People in Fallon and other reaches of the river are complaining about the state's methods of dealing with the aftermath of two floods and a highwater event.

If we do nothing our income and workload will shrink until the funding available to pay for salaries get so low that our current full-time positions will become parttime jobs and experienced staff will seek employment elsewhere. When this happens, the district will limp along on the money available for education, outreach and meetings. Actual river projects will take years to get back up to where we are today.

Financial: The attached estimate of expenditures reflects funds collected and spent for various projects. We have what I suppose id a "Flex Budget" in that we obtain funds for projects and spend them on the projects, but the project life can span two or more reporting periods. We are solvent and have more income and expense and will continue to have this cash flow throughout the reporting periods.

In closing I'd say that the current work environment is untenable. If we can't restore routine surface water conveyance system repairs and maintenance to the water owners and the standards used before the 2 floods and high-water the district will lose staff and trained work crews who currently work for the benefit of the state. Replacing these work crews is a complex and timely process that involves finding, training, deploying and evaluating work products. We could be going backwards a lot faster than forward if this deadlock isn't broken.

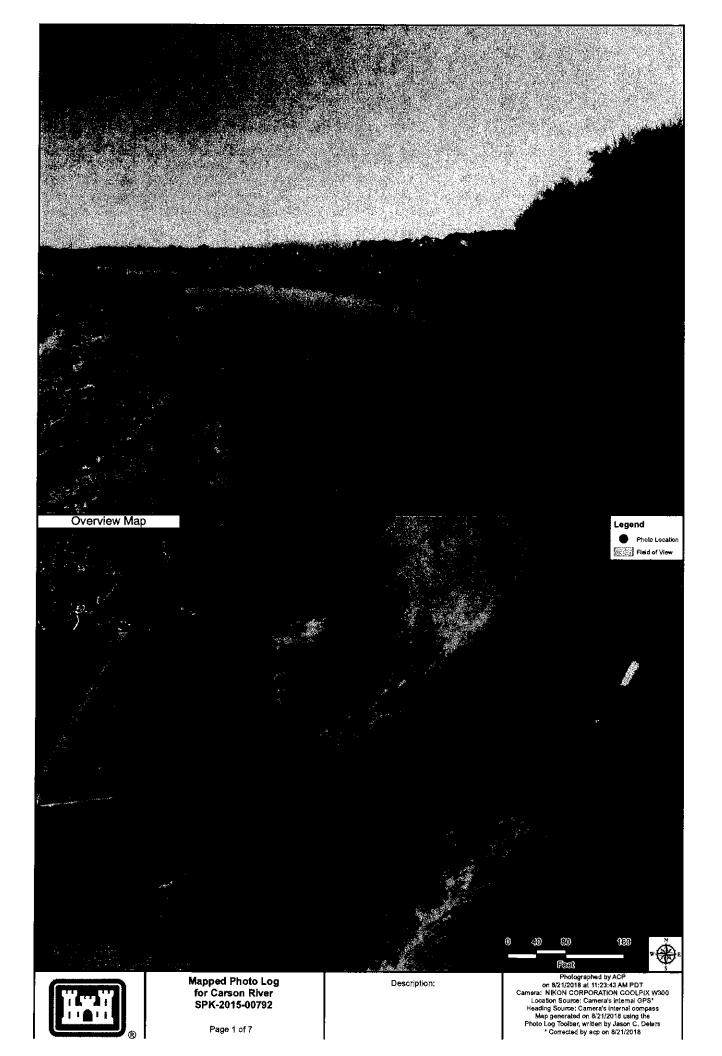
I apologize for the repetitive nature of comments but the issue of the water owners and the regulators fighting one another runs through every aspect of our business and projects.

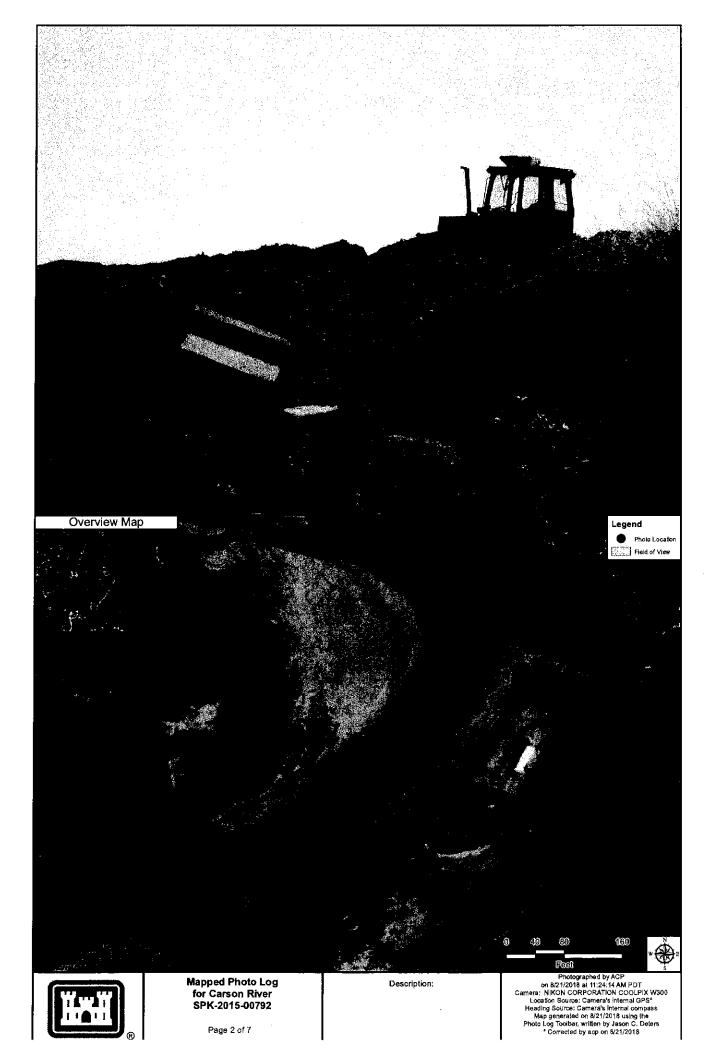
Thank you for your time and consideration.

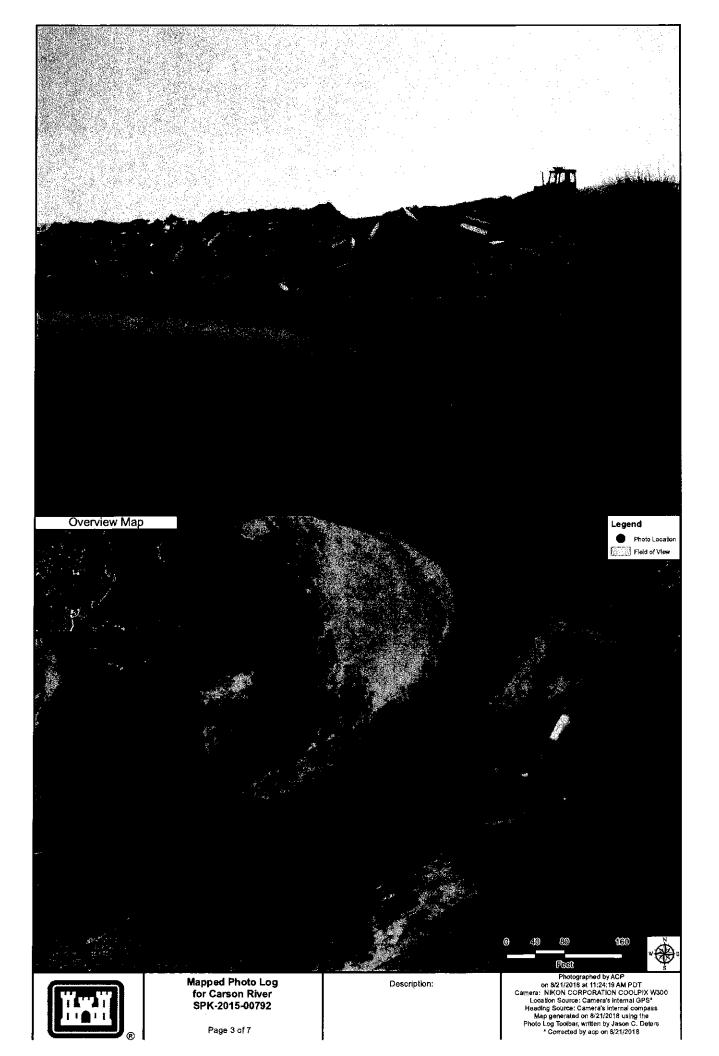
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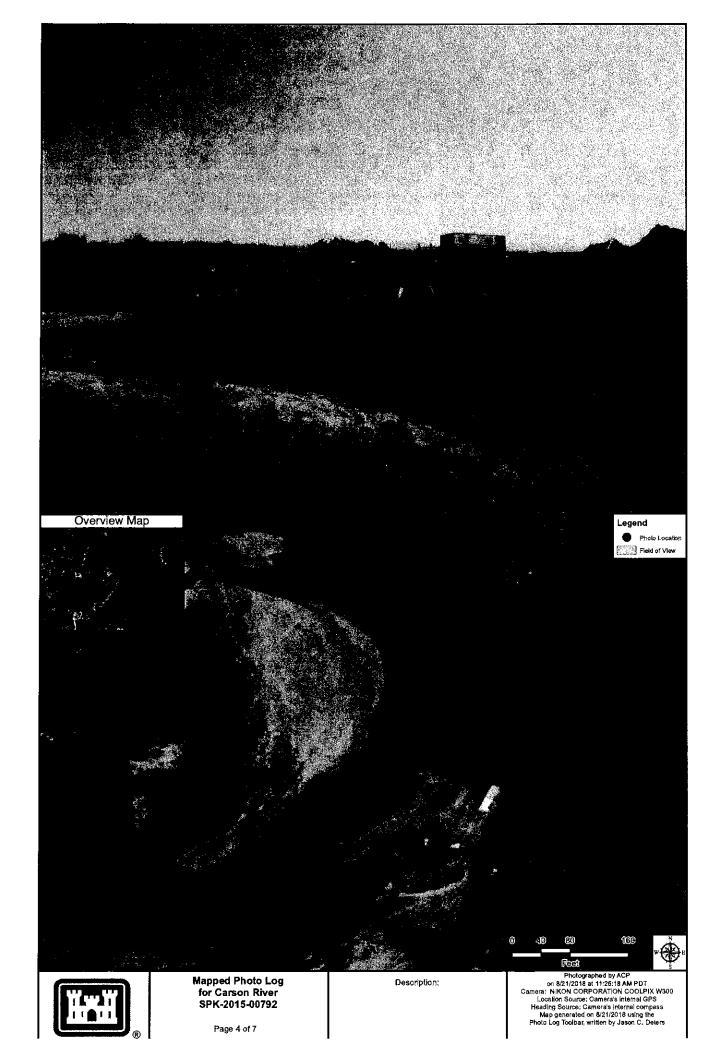
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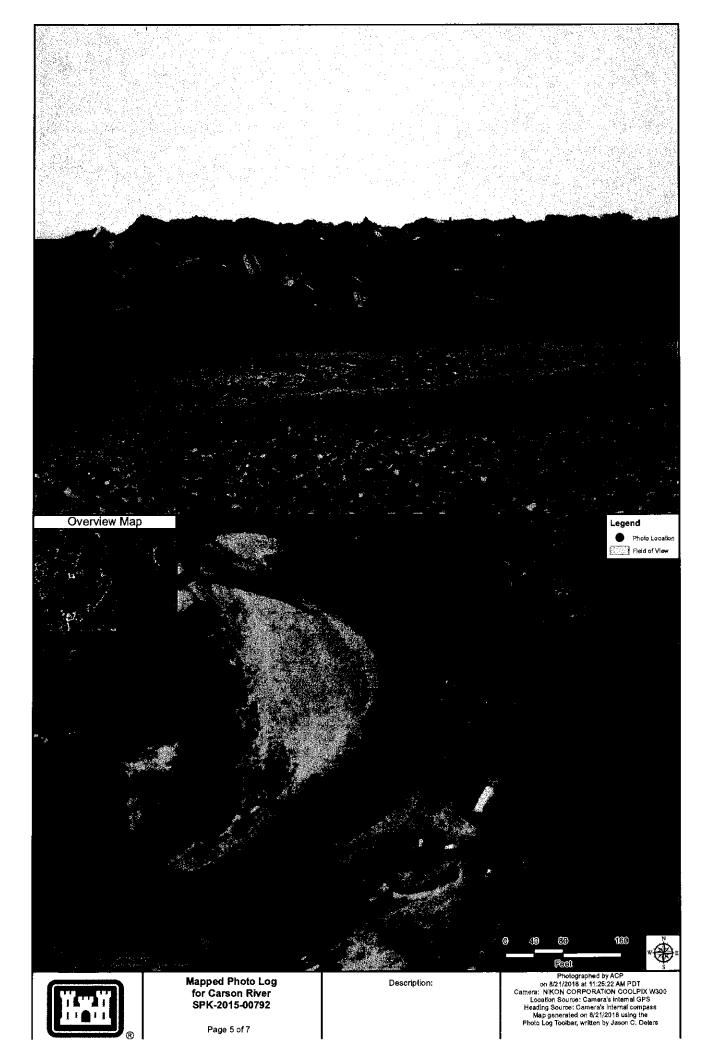
Att: Regulator Site Inspection

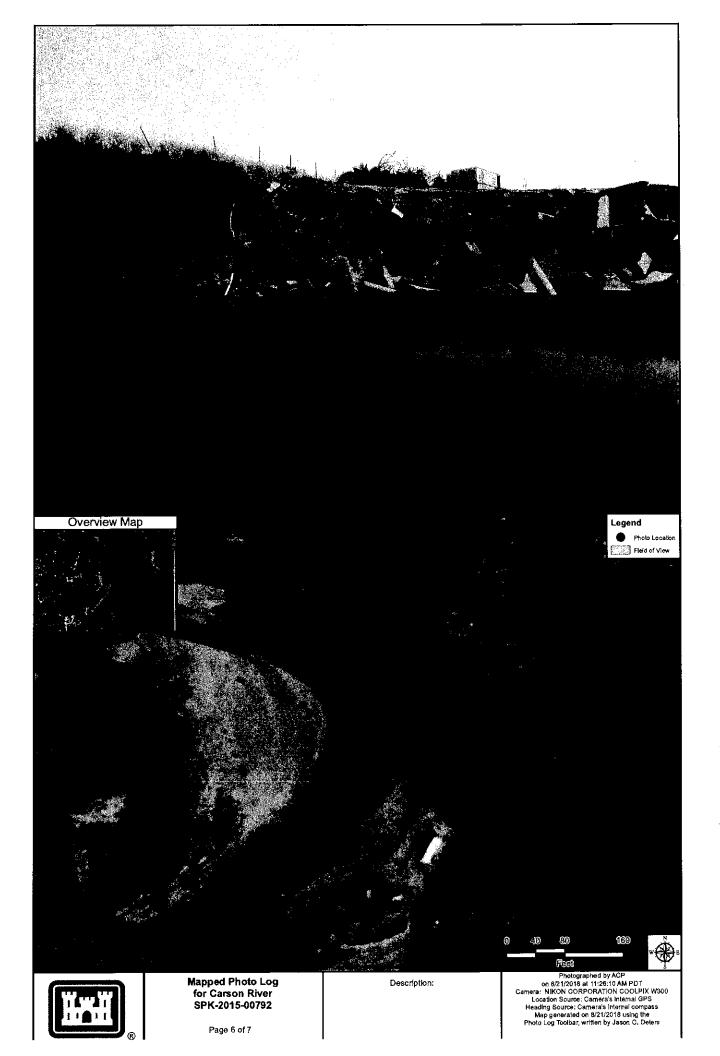


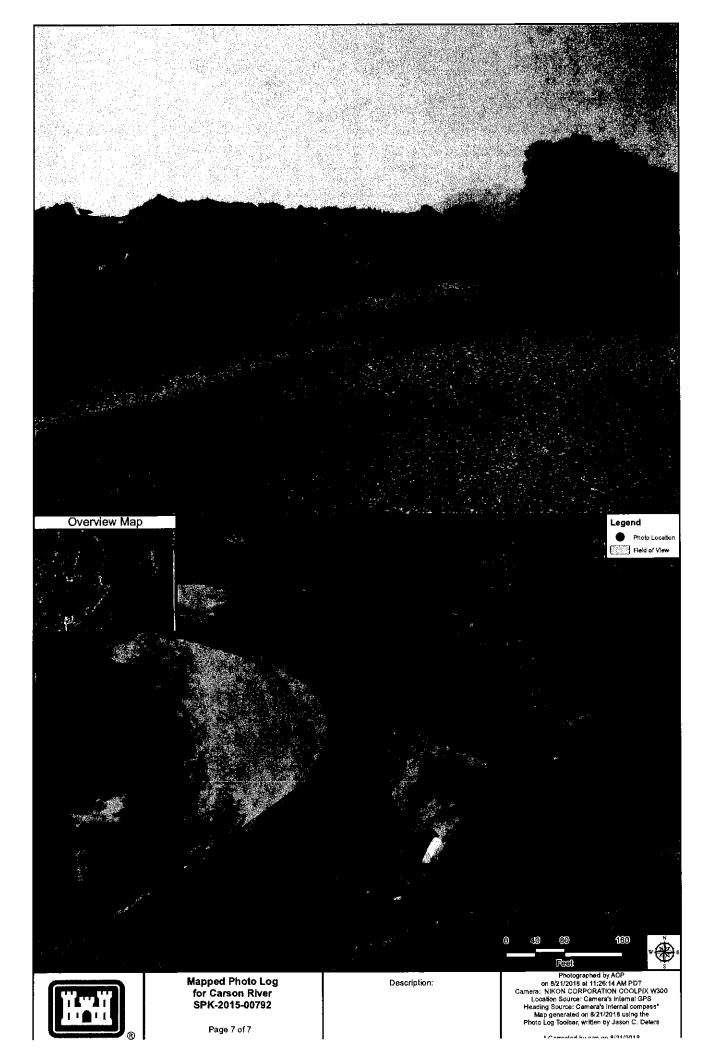












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Nevada Department of Wildlife					\$	47,000.00
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Subtotal: S Noxious Weed Treatment Funds CWSD-Annual Funding for Noxious Weed Treatments CTWCD-Annual Funding for Noxious Weed Treatments \$ DOA Noxious Weed Funding \$ Douglas County \$ National Fish and Wildlife Foundation Desert Terminal Lakes \$ Nevada Division of Forestry State Fire Assistance Grant \$ Subtotal: \$ Subtotal: Sage Grouse NRCS Funding Nevada Dream Tag \$ Nevada Off Road Funding \$ Bureau of Land Management \$ Natural Resource Conservation Service Funding \$ Subtotal: \$ <td>180,000.00</td>	180,000.00										
Noxious Weed Treatment Funds With the second s	1,165,000.00										
CWSD-Annual Funding for Noxious Weed Treatments \$ CTWCD-Annual Funding for Noxious Weed Treatments \$ NDOA Noxious Weed Funding \$ Douglas County \$ National Fish and Wildlife Foundation Desert Terminal Lakes \$ Nevada Division of Forestry State Fire Assistance Grant \$ Subtotal: \$ Subtotal: \$ Nevada Dream Tag \$ Nevada Off Road Funding \$ Natural Resource Conservation Service Funding \$ Subtotal: \$ Subtotal: \$ Other Funding \$ CWSD Landowner workshop \$ River Wrangler Funds through CWSD \$ Douglas County-Yearly Funding \$ Equipment Rental Program Income \$	1,103,000.00										
CWSD-Annual Funding for Noxious Weed Treatments \$ CTWCD-Annual Funding for Noxious Weed Treatments \$ NDOA Noxious Weed Funding \$ Douglas County \$ National Fish and Wildlife Foundation Desert Terminal Lakes \$ Nevada Division of Forestry State Fire Assistance Grant \$ Subtotal: \$ Subtotal: \$ Nevada Dream Tag \$ Nevada Off Road Funding \$ Natural Resource Conservation Service Funding \$ Subtotal: \$ Subtotal: \$ Other Funding \$ CWSD Landowner workshop \$ River Wrangler Funds through CWSD \$ Douglas County-Yearly Funding \$ Equipment Rental Program Income \$											
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Nevada Dream Tag \$ Nevada Off Road Funding \$ Bureau of Land Management \$ Natural Resource Conservation Service Funding \$ Natural Resource Conservation Service Funding \$ Subtotal: \$ CWSD Landowner workshop \$ River Wrangler Funds through CWSD \$ Douglas County-Yearly Funding \$ Equipment Rental Program Income \$	100,000.00										
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CWSD Landowner workshop\$River Wrangler Funds through CWSD\$Douglas County-Yearly Funding\$Equipment Rental Program Income\$	-										
River Wrangler Funds through CWSD \$ Douglas County-Yearly Funding \$ Equipment Rental Program Income \$											
Douglas County-Yearly Funding \$ Equipment Rental Program Income \$	-										
Douglas County-Yearly Funding\$Equipment Rental Program Income\$	4,600.00										
Equipment Rental Program Income \$	25,000.00										
Conservation District Program \$	1,000.00										
	3,500.00										
Interest \$	5.00										
Donations \$	-										
Subtotal: \$	34,105.00										
Total Income: \$											

	Carso	n Valley Cor	servation D	istrict						
Carson Valley Conservation District Estimate of Expenditures FY 2018/19										
FY 2018/2019 EXPENDITURES										
			Erosion Control Fi							
CWSD-Annual Funding for River Projects	KIVE	i anu Nightaway i		inus	\$	150,000.00				
CTWCD-Annual Funding for River Projects					\$	20,000.00				
Douglas County					\$	20,000.00				
Nevada Department of Transportation					\$	450,000.00				
Nevada Department of Wildlife						47,000.00 25,000.00				
United States Fish and Wildlife Service										
Nevada Division of Water Resources AB 19	0 Program				\$	212,500.00				
NDEP 319 Grant for River Projects					\$	87,130.00				
		<u>Subtotal:</u>			\$	1,011,630.00				
CWSD-Annual Funding for Noxious Weed T	Incotmonto	Noxious Weed 1	reatment Funds		\$					
CTWCD-Annual Funding for Noxious Weed					ֆ \$	-				
Douglas County	Treatments				۰ ۶	100.000.00				
NDOA Noxious Weed Funding					\$					
National Fish and Wildlife Foundation Dese	rt Terminal Lakes				\$					
Nevada Division of Forestry State Fire Assis					\$					
Subtotal:					\$	100,000.00				
					_					
	En	nployee and Boar	d Member Expens	es						
CVCD Coordinator					\$	55,000.00				
CVCD Grant & Watershed Coordinator					\$	55,000.00				
Sagegrouse Coordinator & NRCS Liason					\$	25,000.00				
Administrative Assistant \$12/hour (1/2FT	E)				\$	15,000.00				
Health Insurance Reimbursement Staff					\$	-				
Wells Fargo-Employer Taxes/Collection					\$	17,280.00				
Payroll Invoice Fees/W-2 Forms					\$	1,400.00				
Insurance: Liability for Staff and Board Mer	nbers				\$	785.00				
Insurance: Worker's Compensation					\$	1,760.00				
	 	<u>Subtotal:</u>			<u>\$</u>	<u>171,225.00</u>				
		. /17 1 . 1	D (1							
Insurance and Liability: Vehicles and Equip		<u>uipment/venicie</u>	Expenses/Insuran		đ					
Staff and Board Workers Compensation	ment		I		\$ \$	2,500.00				
Equipment and Vehicle Expenses routine m	naintenance				۰ ۶	2,300.00				
Equipment and venice Expenses routine in	laintenance	Subtotal:			\$	2.500.00				
		Dubtotum								
		General Opera	ting Expenses:		-					
Office supplies and postage		•	0		\$	500.00				
Cell Phone					\$	-				
Office phone and fax lines					\$	-				
Fuel					\$	5,000.00				
Misc: Computer, software, books, office equ					\$	1,500.00				
Tri-Odyssey Business Services Payroll Serv	ices Fees		1		\$	5,000.00				
NVACD Sponsorship Annual Dues	<u> </u>		-		\$	-				
Weed Management Training & Certification					\$	-				
Training, certifications, airfare, accomodati	ons, meais, etc.				\$ \$					
Operating Contingency		Subtotal:			э \$	12,000.00				
		<u>Subtotal:</u>			<u>.</u>	12,000.00				
	D	ivor Wranglor Fu	nds Through CWSI							
Annual Event, awards, and etc.	<u></u> <u>N</u>	iver wrangier ru	<u>ilus Tillougii Cwsi</u>	<u>/</u>	\$					
Range Camp					۰ ۶	250.00				
Carson River Workdays					\$	-				
Vegetation Management										
Carson River Festival-Plant Donation										
		Subtotal:			\$ \$	1,750.00				
	-	atal Europeditures				1 200 105 00				

'otal Expenditure

\$ 1,299,105.00