



"Al Steninger" <wrsals@frontiernet.net> on 01/10/2008 05:38:34 PM

RRR000665

To: <eis_office@ymp.gov>

cc:

Subject: Colvin Comments to the Rail Corridor and Rail Alignment Draft EISs

LSN: Relevant - Not Privileged
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Dear DOE EIS Office,

Colvin & Son, LLC's January 10, 2008 Comments were initially submitted to the DOE today by pasting the text of Colvin's Comments into DOE's online comment form at www.ymp.gov, but such form had no provision to attach files to the comments, so the PDF files described below and transmitted herein could not be submitted via the online form. Thus, we are providing the full comments and attachments via this e-mail.

Transmitted with this e-mail is a PDF file containing Colvin's January 10, 2008 Comments, along with 5 PDF files containing Colvin's February 22, 2005 Scoping Comments (1 file with the Scoping Comments and 4 files with its exhibits) and 1 PDF file containing Colvin's March 18, 2005 Supplemental Comments, which are attachments to the January 10, 2008 Comments. A hard copy of the January 10, 2008 Comments with all of its attachments was also sent to the DOE today by certified mail, return receipt requested to...

EIS OFFICE,
U.S. Department of Energy,
Office of Civilian Radioactive Waste Management,
1551 Hillshire Drive,
Las Vegas, NV 89134

Quinton Barr, Western Range Service

	
	
for Colvin & Son, LLC Mar. 2005 Colvin Supplemental Comments.pdf	Feb. 2005 Colvin Scoping Comments-Caliente RR.pdf
	
	
Feb. 2005 Scoping Comments-Attachment F.pdf	Feb. 2005 Scoping Comments-Attachment G - Key.pdf
	
	
Feb. 2005 Scoping Comments-Attachment G - Map.pdf	Feb. 2005 Scoping Comments-Attachments A-E.pdf
	
	
Jan. 2008 Colvin Comments-Caliente Rail Alignment.pdf	

**COMMENTS REGARDING IMPACTS AND MITIGATION REQUIREMENTS
SPECIFIC TO THE STONE CABIN ALLOTMENT AND ADJACENT AREAS
FOR THE RAIL ALIGNMENT IN COMMON SEGMENT 3 UNDER
THE PREFERRED CALIENTE IMPLEMENTING ALTERNATIVE**

JANUARY 10, 2005

by

COLVIN & SON, LLC

of

TONOPAH, NEVADA

as related to the

**DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT
FOR A GEOLOGICAL REPOSITORY FOR THE DISPOSAL OF SPENT NUCLEAR
FUEL AND HIGH-LEVEL RADIOACTIVE WASTE AT YUCCA MOUNTAIN, NYE
COUNTY, NEVADA – NEVADA RAIL TRANSPORTATION CORRIDOR**

and

**DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR A RAIL ALIGNMENT
FOR THE CONSTRUCTION AND OPERATION OF A RAILROAD IN NEVADA TO A
GEOLOGICAL REPOSITORY AT YUCCA MOUNTAIN, NYE COUNTY, NEVADA**

(DOE/EIS-0250F-S2D and DOE/EIS-0369D, respectively)

dated

October 2007

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Attachments (attached to the e-mailed version as PDF files)

- Feb. 2005 Colvin Scoping Comments-Caliente RR.pdf** ~ “Scoping Comments, Impacts, and Mitigation Requirements for the Caliente Rail Route Specific to the Stone Cabin Allotment” prepared by Colvin & Son, LLC on February 22, 2005
- Feb. 2005 Scoping Comments-Attachments A-E.pdf**
- Feb. 2005 Scoping Comments-Attachment F.pdf** ~ (the e-mailed version is a summary with a link to an online source of the October 1997 *Approved Tonopah Resource Management Plan and Record of Decision*)
- Feb. 2005 Scoping Comments-Attachment G – Key.pdf** ~ (legend to the map)
- Feb. 2005 Scoping Comments-Attachment G - Map.pdf** ~ (color scan of the map)
- Mar. 2005 Colvin Supplemental Comments.pdf** ~ “Supplement to the February 22, 2005 Scoping Comments by Colvin & Son, LLC” prepared on March 18, 2005

EXECUTIVE SUMMARY

1 [These comments are submitted by Tom Colvin Jr. and by Colvin & Son, LLC ("Colvin"). They relate to impacts and mitigation measures specific to the Stone Cabin Allotment and adjacent areas for the Common Segment 3 rail alignment under the preferred Caliente Implementing Alternative. Colvin prepared scoping comments regarding the proposed Caliente Rail Route on February 22, 2005, and augmented the scoping comments with supplemental comments on March 18, 2005. Colvin's February 22, 2005 scoping comments and March 18, 2005 supplemental comments are referenced herein as "Previous Colvin Comments" and are hereby reiterated in their entirety, attached, and incorporated by reference.]

2 [Colvin continues to oppose selection of the Caliente Implementing Alternative, particularly if Colvin's interests and the interests of others within and around the Stone Cabin Allotment are not adequately mitigated. To the extent that the Favored Mitigation scenario presented in the Previous Colvin Comments or an appropriate array of similar mitigation measures will be implemented to leave Colvin whole, Colvin does not oppose the Caliente Implementing Alternative. However, the Department of Energy's ("DOE's") Best Management Practices and potential mitigation descriptions to date are so vague that Colvin cannot form an informed conclusion regarding whether its interests will be adequately mitigated under the Caliente Implementing Alternative. Thus, Colvin encourages the DOE to reconsider the Valley Modified rail route because it would be significantly shorter than the Caliente Rail Route and would not impact Colvin's interests. Or else, in the absence of adequate mitigation, Colvin encourages the DOE to select the No-Action Alternative.]

3 [The DOE's Draft Environmental Impact Statement ("EIS") documents fail to resolve many of the factual and legal deficiencies noted in the Previous Colvin Comments. These Draft EIS documents continue the DOE's practice of conducting environmental reviews and making decisions (such as eliminating alternative rail routes from further consideration) affecting public land within the Tonopah Planning Unit when such environmental reviews and management decisions must be prepared by the Bureau of Land Management ("BLM") prior to approval of any project on public lands. The BLM must assume the lead agency status for any evaluation, review, and decisions affecting public land within the Tonopah Planning Unit, not merely be a "cooperating" agency.

Since no railway within the Tonopah Planning Unit was contemplated when the BLM's 1997 Resource Management Plan ("RMP", also known as its Land Use Plan) was approved, selection of the Caliente Implementing Alternative will require an amendment to said RMP before the railroad can be constructed and operated. Accordingly, any Record of Decision issued by the DOE that stems from its Draft EIS documents cannot be implemented within the BLM's Tonopah Planning Unit unless such actions are reviewed and approved through EISs and decisions prepared by the BLM in conformance with an amended Resource Management Plan.]

4 [The DOE's Draft EIS documents fail to adequately describe the affected environment associated with the rail alignment in Common Segment 3 under the preferred Caliente Implementing Alternative. Thus, the DOE has not yet identified site-specific mitigation measures sufficient to offset or compensate for all of the impacts that will result if the Caliente Implementing Alternative is selected. The Previous Colvin Comments raised a number of environmental issues, management objectives, and standard operating procedures that were established by the 1997 Resource Management Plan for BLM administered lands within the Tonopah Planning Unit that the DOE's planning documents for the Caliente Implementing Alternative have not yet analyzed adequately, if at all. The DOE's Draft EIS documents fail to adequately address significant impacts associated with private lands, BLM and US Forest Service grazing preferences, Nevada grazing rights, livestock use patterns, range improvements, rights-of-way, federal grants, water rights, wildlife, recreation, aesthetics, cultural resources, mineral rights, and mining. Additionally, the DOE's Draft EIS documents fail altogether to analyze significant impacts associated with BLM Resource

Management Plan objectives and standard operating procedures, wild horses, Wilderness Study Areas, and monitoring investments. Thus, many of the multiple use relationships upon public land that would be altered by the Caliente Implementing Alternative are inadequately evaluated, or are not addressed at all in the DOE's Draft EIS documents.]

5 [The DOE's Draft EIS for a rail alignment states at Section 7.2.1 that the preparation of a mitigation action plan is required when the DOE identifies mitigation commitments in the Record of Decision, but then immediately calls such requirement into question by stating "If a mitigation action plan is necessary, it would follow the Record of Decision and would provide details about mitigation commitments and provisions provided in the Record of Decision, if any." These "if" qualifiers imply that the Record of Decision may not include any mitigation commitments. In recent discussions with the DOE, Colvin was assured that if an implementation alternative is selected, a mitigation action plan will be prepared by the DOE, working in close contact with the BLM, BLM grazing permittees, and other affected parties, giving numerous opportunities for Colvin to provide input regarding site-specific impacts and mitigation measures to address such impacts after the Record of Decision is issued. If this is what the DOE intends, the Mitigation section of the Draft EIS for a rail alignment should be expanded to clarify such intent by outlining the step-by-step process that will occur between issuance of the Record of Decision and construction of the railroad to ensure that adequate mitigation measures are identified and implemented. In addition, any implementation alternative must preserve the appeal rights prescribed by 43 C.F.R. Part 4100, Subpart 4160, as a condition to any change or modification in grazing use associated with the public lands in the Tonopah Planning Unit.]

6 [The DOE's Draft EIS for a rail alignment fails to adequately mitigate impacts to Colvin's interests because it fails to address many of the specific mitigation requirements identified in the Previous Colvin Comments that are necessary to leave Colvin whole. In fact, the Draft EIS for a rail alignment implies that the mitigation requirements necessary to keep Colvin whole may be precluded under the Caliente Implementing Alternative by titling Table 7.2 "Potential measures to mitigate potential environmental impacts of constructing and operating the proposed railroad", but omitting most of the mitigation requirements identified under the Previous Colvin Comments from said table. This implies that the mitigation measures needed to keep Colvin whole are not potential measures to mitigate impacts under the Caliente Implementing Alternative. Unless Table 7.2 is intended to limit the scope of mitigation to those measures specifically listed therein, its title should be modified to clarify that the table lists some, but not all, potential mitigation measures. For example, the title to Table 7.2 could be expanded to read "Potential measures to mitigate potential environmental impacts of constructing and operating the proposed railroad include, but are not limited to, the following measures."]

7 [The DOE's Draft EIS for a rail alignment recognizes that mitigation includes "Compensating for the impact by replacing or providing substitute resources or environments." However, the Draft EIS for a rail alignment elsewhere implies that this form of mitigation will not be used when it states "DOE could mitigate most potential impacts... but there would be some unavoidable impacts, for example, on the use of grazing land." If mitigation includes compensation by replacing or providing substitute resources or environments, even the unavoidable impacts related to the use of grazing land can be mitigated by providing appropriate compensation. For example, Colvin proposes such compensatory mitigation in the Previous Colvin Comments when it specifies that the grazing capacity of the vacant Ralston Allotment should be used to compensate Stone Cabin permittees for forage areas that would be lost within the Stone Cabin Allotment due to the railroad footprint, and its influence on the use patterns of livestock and wild horses. If it is the intent of the DOE to limit potential mitigation actions by eliminating compensation as a mitigation tool, such limitation is unreasonable. If the DOE does not intend to eliminate compensation as a mitigation tool, the mitigation section needs to be rewritten to avoid this implication.]

INTRODUCTION

These comments were prepared and are submitted by Tom Colvin Jr. and Colvin & Son, LLC ("Colvin"). They relate to impacts and mitigation measures specific to the Stone Cabin Allotment and adjacent areas for the rail alignment in Common Segment 3 under the preferred Caliente Implementing Alternative. The *Draft Supplemental Environmental Impact Statement for a Geological Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada – Nevada Rail Transportation Corridor ("Rail Corridor DEIS")* and the *Draft Environmental Impact Statement for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geological Repository at Yucca Mountain, Nye County, Nevada ("Rail Alignment DEIS")* were relied upon for the preparation of these comments. These comments were submitted to the Department of Energy ("DOE") via the Internet at <http://www.ymp.gov>, and by certified US Mail, return receipt requested.

REITERATION OF PREVIOUS COLVIN COMMENTS

8 [In response to the April 2, 2004 *Notice of Intent to Prepare an Environmental Impact Statement for the Alignment, Construction, and Operation of a Rail Line to a Geological Repository at Yucca Mountain, Nye County, NV*, Colvin submitted comments entitled "Scoping Comments, Impacts, and Mitigation Requirements for the Caliente Rail Route Specific to the Stone Cabin Allotment" on February 22, 2005. Colvin augmented the February 22, 2005 scoping comments with supplemental comments on March 18, 2005. Colvin's February 22, 2005 scoping comments (with Attachments A-E, F, G - Key, and G - Map) and Colvin's March 18, 2005 supplemental comments are hereby attached to these comments as PDF documents, reiterated in their entirety, and incorporated by reference. Colvin's February 22, 2005 scoping comments and March 18, 2005 supplemental comments are together referenced herein as "Previous Colvin Comments".]

SELECTION OF ALTERNATIVES

9 [As with the Previous Colvin Comments, if Colvin's interests and the interests of others within and around the Stone Cabin Allotment are not adequately mitigated under the Caliente Implementing Alternative, Colvin opposes selection of said Alternative and instead supports the No-Action Alternative, or encourages reconsideration of the Valley Modified rail route because it would be significantly shorter than the Caliente Rail Route and would not impact Colvin's interests. The *Rail Corridor DEIS* concludes that there are no significant new circumstances or information relevant to environmental concerns regarding the Valley Modified Corridor. Thus, Colvin reiterates its position from the Previous Colvin Comments that it is illogical for the DOE to favor the Caliente Rail Route over the Valley Modified Rail Route based upon potential conflicts with the Desert National Wildlife Range, local community development plans for the Las Vegas metropolitan area, and concerns expressed by the public in Nevada when the DOE flatly concluded back then that environmental risks associated with all of the alternatives were essentially equal, and now finds no significant new circumstances or information to alter that conclusion.

To the extent that the Favored Mitigation scenario identified in the Previous Colvin Comments can be implemented in its entirety, or an appropriate array of mitigation measures similar to those identified in the Previous Colvin Comments can be implemented to leave Colvin whole (with a functional ranching operation and a total grazing capacity at least as large as its current preference), Colvin does not oppose the Caliente Implementing Alternative. However, without assurance of adequate mitigation, Colvin supports the No-Action Alternative, or encourages reconsideration of the Valley Modified rail route.]

APPROPRIATE LEAD AGENCY FOR THE RAIL ALIGNMENT EIS AND MITIGATION PLANNING

10 [The *Rail Corridor DEIS* and *Rail Alignment DEIS* fail to resolve many of the factual and legal deficiencies noted in the Previous Colvin Comments. The DOE's Draft EIS documents continue the Department of Energy's ("DOE's") practice of conducting environmental reviews and making decisions (such as eliminating alternative rail routes from further consideration) affecting public land within the Bureau of Land Management ("BLM") Tonopah Planning Unit in contradiction to the Standard Operating Procedure for "Environmental Review and Management" established within the October 1997 *Approved Tonopah Resource Management Plan and Record of Decision* ("1997 RMP/ROD") which requires that such environmental reviews and management decisions be prepared by the BLM prior to approval of any project on public lands. Such 1997 RMP/ROD requirement obliges the BLM to act as the lead agency for any evaluation, review, and decisions affecting public land within the Tonopah Planning Unit, not merely participate as a "cooperating" agency.

Here, the DOE continues a process through which it is preparing EIS documents and generating decisions affecting the use and management of public land within the Tonopah Planning Unit when such EIS documents and decisions are required to be prepared by the BLM, not the DOE. Ultimately, every site-specific environmental impact and right-of-way across public land within the Tonopah Planning Unit associated with the construction and operation of the Caliente Implementing Alternative must be evaluated, selected, and approved through EIS documents and decisions prepared by the BLM. See also 43 U.S.C. § 1761(a)(6) (wherein the authority to grant a rail right-of-way upon public land is vested in the Secretary of the U.S. Department of Interior, aka BLM). Since no railway within the Tonopah Planning Area was contemplated upon approval of the 1997 RMP/ROD, the Caliente Implementing Alternative would require the BLM to prepare an amendment to said RMP before the railroad can be constructed and operated.¹ Accordingly, any Record of Decision issued by the DOE that stems from its own EIS documents cannot implement an action within the Tonopah Planning Unit unless such action is reviewed and approved through EIS documents and decisions prepared by the BLM in conformance with its amended 1997 RMP/ROD.]

¹ Because the mitigation measures discussed herein for US Forest Service allotments only require the assignment of the preference for vacant allotments to qualified livestock operators and the adjustment of Appropriate Management Levels in wild horse territories, there is no need to amend the applicable US Forest Service Land Use Plan in conjunction with such mitigation.

SITE-SPECIFIC IMPACTS

1) [The *Rail Alignment DEIS* fails to adequately describe the affected environment associated with the rail alignment in Common Segment 3 under the preferred Caliente Implementing Alternative. Thus, the DOE has not yet provided detailed descriptions for site-specific impacts that will result if the Caliente Implementing Alternative is selected, and cannot develop site-specific mitigation measures sufficient to offset or compensate for unknown impacts. The Previous Colvin Comments raised a number of management objectives, standard operating procedures, and environmental issues that were established by the 1997 RMP/ROD for BLM administered lands within the Tonopah Planning Unit that the DOE's Draft EIS documents for the Caliente Rail Route have not yet analyzed adequately, if at all.

The *Rail Alignment DEIS* fails to adequately address significant impacts that will occur within the Stone Cabin Allotment and adjacent areas associated with the rail alignment in Common Segment 3 under the preferred Caliente Implementing Alternative, and fails to recognize and analyze several other significant impacts altogether. The *Rail Alignment DEIS* fails to adequately address significant impacts for the Caliente Implementing Alternative associated with private lands, BLM and US Forest Service ("USFS") grazing preferences, Nevada grazing rights, range improvements, rights-of-way, federal grants, water rights, wildlife, recreation, aesthetics, cultural resources, mineral rights, and mining. The *Rail Alignment DEIS* fails altogether to analyze significant impacts for the Caliente Implementing Alternative associated with BLM Resource Management Plan objectives and standard operating procedures, wild horses, Wilderness Study Areas, and monitoring investments. Thus, many of the multiple use relationships upon public land within the Tonopah Planning Unit that would be altered by the Caliente Implementing Alternative are inadequately evaluated, or are not addressed at all by the DOE's EIS documents.

For example, the Caliente Implementing Alternative would block access routes to certain areas that are currently recreation destinations for the general public, which would shift such recreational use to other areas. Such shifts in the amount of recreational pressure from one location to another influence the multiple use relationships with other factors, such as wilderness characteristics and wild horse use. Thus, a decrease in recreational pressure in one area due to the railroad might increase its wilderness value and result in more use by wild horses, while an increase in recreational pressure in another area might diminish its wilderness value and result in less wild horse use. Conversely, direct affects that the railroad would have on wilderness values and wild horse use patterns play a role in how desirable an area is for recreational purposes. The *Rail Alignment DEIS* fails to adequately evaluate the affect of the Caliente Implementing Alternative on recreation because it does not address the significant interactions between various uses and values upon the public lands, and fails altogether to analyze some of the uses and values that influence recreation which would be altered by the railroad. Similar examples of significant interactions between various uses and values upon the public lands that are not adequately addressed by the DOE's EIS Documents can be cited for each significant impact listed in the preceding paragraph.]

MITIGATION

12 [The *Rail Alignment DEIS* states at Section 7.2.1 that the preparation of a mitigation action plan is required when the DOE identifies mitigation commitments in the Record of Decision for the *Rail Alignment DEIS*, but then immediately calls such requirement into question by stating “If a mitigation action plan is necessary, it would follow the Record of Decision and would provide details about mitigation commitments and provisions provided in the Record of Decision, if any. “ These “if” qualifiers imply that regardless of what decision is made, the Record of Decision may not include any mitigation commitments, and thus no mitigation action plan would be required or prepared.

In recent discussions with DOE staff responsible for transportation planning associated with the construction and operation of the Yucca Mountain Geological Repository, Colvin’s consultants at Western Range Service were assured that if the Record of Decision selected an implementation alternative, a mitigation action plan will be required and will be prepared by the DOE, working in close contact with the BLM, BLM grazing permittees, and other affected parties. The DOE further assured Western Range Service that there will be numerous opportunities for Colvin to identify site-specific impacts, to provide input regarding mitigation measures to address such impacts, and to negotiate an acceptable mitigation package after the Record of Decision is issued. If this is what the DOE intends, the Mitigation section of the *Rail Alignment DEIS* should be expanded to clarify such intent by outlining the step-by-step process that will occur after issuance of the Record of Decision to ensure that adequate mitigation measures are identified and implemented prior to construction of the railroad. Such clarification is critical in light of a DOE “NEPA Process” handout that was circulated at the November 15, 2007 EIS Comment meeting in Caliente that indicates that comments to the Draft Repository and Rail EIS documents (such as the comments contained herein) will be the last opportunity for public input in the entire planning process associated with construction and operation of the railroad.

As written, the *Rail Alignment DEIS* fails to adequately mitigate impacts to Colvin’s interests because it fails to address many of the specific mitigation requirements identified in the Previous Colvin Comments that are necessary to leave Colvin whole. In fact, the *Rail Alignment DEIS* implies that the mitigation requirements necessary to keep Colvin whole may be precluded under the Caliente Implementing Alternative by titling Table 7.2 “Potential measures to mitigate potential environmental impacts of constructing and operating the proposed railroad”, but omitting most of the mitigation requirements identified under the Previous Colvin Comments from said table.

This implies that the mitigation measures needed to keep Colvin whole are not potential measures the DOE will consider to mitigate impacts under the Caliente Implementing Alternative. Unless Table 7.2 is intended to limit the scope of mitigation to those measures specifically listed therein, its title should be modified to clarify that the table lists some, but not all, potential mitigation measures. For example, the title to Table 7.2 could be expanded to read “Potential measures to mitigate potential environmental impacts of constructing and operating the proposed railroad include, but are not limited to, the following measures.”]

13 [The *Rail Alignment DEIS* recognizes that mitigation includes “Compensating for the impact by replacing or providing substitute resources or environments.” However, the *Rail Alignment DEIS* implies elsewhere that this form of mitigation will not be used when it states on page 8-1 “DOE could mitigate most potential impacts... but there would be some unavoidable impacts, for example, on the use of grazing land.” If mitigation includes compensation by replacing or providing substitute resources or environments, even the unavoidable impacts related to the use of grazing land can be mitigated by providing appropriate compensation. For example, Colvin proposes such compensatory mitigation in the Previous Colvin Comments when it specifies that the grazing capacity of the vacant Ralston Allotment should be used to compensate Stone Cabin permittees for forage areas that will be lost within the Stone Cabin Allotment due to the railroad footprint, and its influence on the use patterns of livestock and wild horses.

When the *Rail Alignment DEIS* indicates that “unavoidable impacts” such as “the use of grazing land” are not impacts that could be mitigated, it implies that mitigation through compensation will not occur. If it is the DOE’s intent to limit potential mitigation actions by eliminating compensation as a mitigation tool, such limitation is unreasonable. If the DOE does not intend to eliminate compensation as a mitigation tool under the Caliente Implementing Alternative, the mitigation section needs to be rewritten to avoid this implication.

The Previous Colvin Comments identified, and Colvin now reiterates, numerous factors that affect mitigation requirements within and around the Stone Cabin Allotment if the Caliente Implementing Alternative is selected, including:

1. Ongoing conflicts between domestic livestock and wild horses within the Stone Cabin Allotment and surrounding areas which will be significantly exacerbated by the Caliente Rail Route;
2. Year-long grazing impacts to resource conditions by wild horses and another BLM grazing permittee’s cattle within the central portion of the Stone Cabin Allotment which will be significantly exacerbated by the Caliente Rail Route to the detriment of the Colvin ranch operation;
3. Vacant grazing preferences associated with the BLM Ralston and USFS McKinney Tanks Allotments which could compensate for forage areas that would be lost within the Stone Cabin Allotment due to the railroad footprint and its influence on the use patterns of livestock and wild horses identified in Items 1 and 2 above; and,
4. Colvin’s history of authorized use within the southern portion of the otherwise vacant Ralston Allotment starting in 1996 through Temporary Non-Renewable BLM grazing licenses.]

14 [Thus, the Previous Colvin Comments identified, and Colvin now reiterates, numerous mitigation measures and elements which outline Colvin’s Favored Mitigation scenario to adequately mitigate known and anticipated impacts that will result if the Caliente Implementing Alternative is selected, including:

- I. Interim Management ~ Implement the following interim management provisions until the provisions listed under Item II below are fully implemented;
 1. Authorize Colvin to graze its full Stone Cabin Preference within the Ralston and McKinney Tanks Allotments until such time as construction of the fence on the northwest side of the railroad is completed. During this period, Colvin shall be authorized to trail its cattle through the Stone Cabin Allotment to move between the Wagon Johnnie and the Ralston/McKinney Tanks allotments, and the entire Ralston and McKinney Tanks vacant preferences shall be granted to Colvin & Son, LLC through a term grazing permit. Until the Ralston and McKinney Tanks preferences are granted to Colvin through a term grazing permit, grazing within the Ralston and McKinney Tanks Allotments shall be authorized through annual Temporary Non-Renewable grazing licenses. During this interim period, the entire Stone Cabin Allotment shall be available for use by the Stone Cabin Partnership;
 2. After the fence on the northwest side of the railway is completed, all wild horse use within the Stone Cabin HMA, Saulsbury HMA, and Little Fish Lake wild horse areas shall be moved to the Kawich Unit (southeast of the railway), the Kawich Unit AML shall be set to accommodate a maximum of 536 wild horses, and AMLs for wild horses north and west of the railway shall be set to zero. During this interim period, Colvin shall be allowed to exercise its currently permitted fall through spring use within the Stone Cabin Allotment, south half of the Ralston and McKinney Tanks Allotments, or north half of the Ralston and McKinney Tanks Allotments as needed. During this interim period, the entire Stone Cabin Allotment north and west of the railway shall be available for use by the Stone Cabin Partnership, but no cattle grazing shall be allowed within the Kawich Unit;
 3. Upon completion of the highway fences, the West/East Stone Cabin Valley division fence, and all other approved mitigation measures, Colvin shall transfer the grazing preference associated with the north portions of the Ralston and McKinney Tanks allotments to Stone Cabin Partnership and a range line agreement executed by both parties shall become effective. Thereafter, Stone Cabin Partnership shall be permitted to graze the West Stone Cabin Valley Unit, the North Ralston Unit, and the North McKinney Tanks Unit as exclusive use areas and Colvin shall be permitted to graze the East Stone Cabin Valley Unit, the Stone Cabin Valley Unit, the South Ralston Unit, and the South McKinney Tanks Unit as exclusive use areas;

II. Long-Term Management

1. Create a Kawich Unit southeast of the Caliente railroad within the Stone Cabin Allotment that will be reserved for grazing only by wild horses and wildlife and will exclude domestic livestock grazing. This will provide enough forage in the Kawich Unit to satisfy the forage demand for the combined Appropriate Management Level ("AML") for wild horses in the BLM administered Stone Cabin, Saulsbury, and Little Fish Lake Herd Management Areas ("HMAs") and the USFS administered Little Fish Lake Wild Horse Territory, while continuing to satisfy

existing wildlife demands. All wild horse use within the Stone Cabin HMA, both Saulsbury HMAs, and both Little Fish Lake wild horse areas will be moved into the Kawich Unit which will have an AML for 536 wild horses. Creation of the Kawich Unit southeast of the Caliente railroad will be accomplished by fencing the northwest side of the railway through the Stone Cabin Allotment to prevent livestock access, with the DOE constructing and maintaining said fence and holding Colvin harmless for any stray cattle that cross it. Public access to the Kawich Unit for other purposes will be provided across three surface crossings with cattle-guards. Once the Kawich Unit is created, Colvin will convey water rights located therein to an affected wild horse advocacy group (or groups);

2. Create separate and exclusive livestock use areas ("Units") for Colvin and for Stone Cabin Partnership by constructing fences, with underpasses, along both sides of US Highway 6², as well as the West/East Stone Cabin Valley division fence. Such exclusive livestock use areas will be free from wild horses because such Units will either be outside of established HMAs or will have AMLs of zero.

Colvin's exclusive use areas will consist of the BLM administered East Stone Cabin Valley Unit north of US Highway 6, the Stone Cabin Valley Unit south of US Highway 6 and northwest of the Caliente railroad, the South Ralston Unit south of US Highway 6 and north of the Caliente railroad, and the USFS administered South McKinney Tanks Unit south of US Highway 6, as well as the Wagon Johnnie (BLM and USFS) and Little Fish Lake (USFS) Allotments in Little Fish Lake Valley.

The Stone Cabin Partnership's exclusive use areas will consist of the BLM administered West Stone Cabin Valley Unit north of US Highway 6, North Ralston Unit north of US Highway 6, and Hunts Canyon Unit, and the USFS administered North McKinney Tanks Unit north of US Highway 6, as well as its current USFS Allotment(s);

3. Construct and develop new pipelines and wells for stockwater;
4. Construct a pipeline to service the needs of the Yucca Mountain Repository and the greater Las Vegas metropolitan area; and,
5. Reimburse Colvin for additional monitoring expenses that will be incurred to adapt Colvin's historical monitoring program to the changes that will result during construction and operation of the Caliente railroad.

² Note: The Nevada Department of Transportation is currently in the process of delivering supplies to fence US Highway 6 where it crosses the Stone Cabin Allotment, and anticipates that construction of the highway fences will be underway soon. Thus, the fencing aspect of this element of Colvin's Favored Mitigation will likely be completed before the DOE Record of Decision for the Caliente railroad is issued, and most certainly will be completed before construction of the Caliente railroad might begin.

See the Previous Colvin Comments for more detail regarding the four (4) factors listed above that affect mitigation requirements and for more detail regarding the mitigation measures for the Interim Management and Long-Term Management provisions listed above. Also see the Previous Colvin Comments for optional mitigation measures identified by Colvin.]

15

[Multiple use conflicts throughout three major valleys and two mountain ranges associated with the Stone Cabin Allotment will be reduced by Colvin's Favored Mitigation scenario if the Caliente Implementing Alternative is selected. Key elements of Colvin's Favored Mitigation are the creation of the Kawich Unit with its exclusion of domestic livestock grazing, the conveyance of Colvin water rights therein to an affected wild horse advocacy group (or groups), and the creation of exclusive livestock grazing Units for Stone Cabin permittees which will be free of wild horses or with AMLs of zero. Thus, impacts to Colvin's interests will effectively be mitigated, as well as public interests related to private lands, BLM and USFS grazing preferences, Nevada grazing rights, range improvements, rights-of-way, federal grants, water rights, wildlife, recreation, aesthetics, cultural resources, mineral rights, mining, BLM Resource Management Plan objectives and standard operating procedures, wild horses, Wilderness Study Areas, and monitoring investments.]

**SCOPING COMMENTS, IMPACTS, AND MITIGATION REQUIREMENTS
FOR THE CALIENTE RAIL ROUTE SPECIFIC TO THE STONE CABIN ALLOTMENT**

FEBRUARY 22, 2005

**by
COLVIN & SON, LLC
of
TONOPAH, NEVADA**

**as related to the
NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT
FOR THE ALIGNMENT, CONSTRUCTION, AND OPERATION OF A RAIL LINE
TO A GEOLOGICAL REPOSITORY AT YUCCA MOUNTAIN, NYE COUNTY, NV
dated
APRIL 2, 2004
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69 Fed.Reg. 18565-18569 (4/8/04)**

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Attachment E - Abstract of Active Rights, Colvin & Son, LLC Water Rights ...	2 pages
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Attachment G - Map, Colvin & Son, LLC (mitigation scenarios for the Caliente Rail Route)	2 pages

EXECUTIVE SUMMARY

These scoping comments relate specifically to the scope of a proposed Nevada railway within and adjacent to the Stone Cabin Allotment, and mitigation requirements for associated impacts which are to be analyzed by an "Environmental Impact Statement for the Alignment, Construction, and Operation of a Rail Line to a Geological Repository at Yucca Mountain, Nye County, NV" (hereinafter "Nevada Rail EIS"). See the Notice of Intent to Prepare such EIS dated April 2, 2004 published in 69 Fed.Reg. 18565-18569 (4/8/04). The Caliente Rail Route and alternative transportation options described by the February 2002 "Final Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada" (hereinafter "Yucca FEIS") were relied upon for the preparation of these comments.

Colvin & Son, LLC ("Colvin") opposes the Caliente Rail Route unless impacts to its interests and the interests of others within and around the Stone Cabin Allotment are adequately mitigated. The No Action Alternative proposed for evaluation under the Nevada Rail EIS requires the Department of Energy ("DOE") to analyze: 1) effects associated with a greater number of rail shipments using smaller casks; 2) effects associated with the transfer of radioactive material from large rail shipping casks into smaller shipping casks compatible with legal-weight trucks at intermodal transfer stations; or, 3) some combination of these actions. Colvin encourages reconsideration of the Yucca FEIS's "Valley Modified" rail route or alternative Nevada rail routes that would cross the Nellis Air Force Range and Nevada Test Site more or less due east from Yucca Mountain because they would be significantly shorter than the Caliente Rail Route.

WHEREAS: The DOE issued a Record of Decision selecting the Caliente Rail Route as the route by which to ship nuclear waste to the proposed Yucca Mountain Repository site, and said Caliente Rail Route would impact Colvin's private interests within the Stone Cabin Allotment and surrounding areas, including interests associated with private lands, grazing preferences, Nevada grazing rights, range improvements, federal grants, water rights, wildlife, recreation, aesthetics, cultural resources, wild horses, Wilderness Study Areas, monitoring investments, and mineral rights and mining;

WHEREAS: The Caliente Rail Route would alter multiple use relationships within the Stone Cabin Allotment and surrounding areas, thereby altering the current balance amongst land uses and impacting public interests with respect to federal agency (BLM) land use plan objectives and standard operating procedures related to watersheds, vegetation, visual resource management, wildlife habitat management, livestock grazing management, wild horses, lands, rights-of-way, utility corridors, recreation, Wilderness Study Areas, locatable minerals, and fire management;

WHEREAS: There are ongoing conflicts between domestic livestock and wild horses within the Stone Cabin Allotment and surrounding areas, and the Caliente Rail Route will exacerbate such conflicts without appropriate mitigation;

WHEREAS: Year-long grazing use by wild horses and another BLM grazing permittee's cattle has impacted resource conditions within the central portion of the Stone Cabin Allotment to the detriment of the Colvin ranch operation, and the Caliente Rail Route will exacerbate such year-long use without appropriate mitigation;

WHEREAS: The grazing preferences associated with the BLM Ralston and USFS McKinney Tanks Allotments are currently vacant;

and,

WHEREAS: Colvin has been the primary livestock grazing user within the southern portion of the otherwise vacant Ralston Allotment since November 1996 and was granted Temporary Non-Renewable BLM grazing authorizations within the Ralston Allotment during portions of 6 different calendar years thereafter.

THEREFORE: Colvin presents its Favored Mitigation scenario to adequately mitigate all of the impacts that would affect Colvin as a result of the Caliente Rail Route, which would leave Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference. Colvin's Favored Mitigation scenario would also effectively mitigate a wide array of public interests related to watersheds, vegetation, visual resource management, wildlife habitat, livestock grazing, wild horses, lands, rights-of-way, utility corridors, recreation, Wilderness Study Areas, locatable minerals, and fire management.

The Favored Mitigation scenario, including Common Mitigation Actions, would create a Kawich Unit southeast of the Caliente Rail Route that would be reserved for grazing only by wild horses and wildlife by excluding domestic livestock grazing. Excluding domestic livestock from the Kawich Unit would provide enough forage therein to satisfy the forage demand for the combined Appropriate Management Level ("AML") for wild horses in the Stone Cabin, Saulsbury, and Little Fish Lake Herd Management Areas ("HMAs") and the Little Fish Lake Wild Horse Territory, while continuing to satisfy existing wildlife demands. All wild horse use within the Stone Cabin HMA, both Saulsbury HMAs, and both Little Fish Lake wild horse areas would be moved into the Kawich Unit which would have an AML for 536 wild horses.

Creation of the Kawich Unit southeast of the Caliente Rail Route would be accomplished under the Favored Mitigation scenario by fencing the northwest side of the railway through the Stone Cabin Allotment to prevent livestock access, with the DOE constructing and maintaining said fence and holding Colvin harmless for any stray cattle that cross it. Public access to the Kawich Unit for other purposes would be provided across three surface crossings with cattle-guards.

In addition to the exclusive wild horse area, the Favored Mitigation scenario would create separate and exclusive livestock use areas ("Units") for Colvin and for Stone Cabin Partnership which would be free from wild horses because such Units would be either outside of established HMAs or would have AMLs of zero.

Colvin's exclusive use areas would consist of the East Stone Cabin Valley Unit north of US Highway 6, the Stone Cabin Valley Unit south of US Highway 6 and northwest of the Caliente Railway, the South Ralston Unit south of US Highway 6 and north of the Caliente Railway, and the South McKinney Tanks Unit south of US Highway 6, as well as the Wagon Johnnie and Little Fish Lake Allotments in Little Fish Lake Valley. Together, the creation of such exclusive use areas that would be free of wild horse competition, the indemnity to Colvin for estray cattle within the Kawich Unit, the construction of highway fences and underpasses, the development of new pipelines and wells for stockwater, the construction of a pipeline to service the needs of the Yucca Mountain Repository and the greater Las Vegas metropolitan area, the acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences south of US Highway 6, and reimbursement for additional monitoring expenses would adequately mitigate all of the impacts of the Caliente Rail Route affecting Colvin and would leave Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference.

The Stone Cabin Partnership's exclusive use areas would consist of the West Stone Cabin Valley Unit north of US Highway 6, the North McKinney Tanks Unit north of US Highway 6, the Hunts Canyon Unit, and the North Ralston Unit north of US Highway 6, as well as its current USFS Allotment(s). The creation of exclusive use areas that would be free of wild horse competition and acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences north of US Highway 6 would leave Stone Cabin Partnership with a functional ranching operation with a total grazing capacity at least as large as its current preference.

Under the Favored Mitigation scenario, multiple use conflicts throughout three major valleys and two mountain ranges associated with the Stone Cabin Allotment would be reduced by the creation of the Kawich Unit with its exclusion of domestic livestock grazing, the conveyance of Colvin water rights therein to an affected wild horse advocacy group (or groups), and the creation of exclusive use Units for permittees, free of wild horses or with AMLs of zero. Thus, impacts to public interests related to watersheds, vegetation, visual resource management, wildlife habitat, livestock grazing, wild horses, lands, rights-of-way, utility corridors, recreation, Wilderness Study Areas, locatable minerals, and fire management would effectively be mitigated.

IN THE ALTERNATIVE: Colvin presents an Optional Mitigation scenario that would adequately mitigate all of the impacts of the Caliente Rail Route affecting Colvin and would leave Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference. However, Colvin's Optional Mitigation scenario would not effectively mitigate impacts to public interests related to: watersheds, vegetation, visual resource management, wildlife habitat, livestock grazing, wild horses, lands, rights-of-way, utility corridors, recreation, Wilderness Study Areas, locatable minerals, and fire management.

The Optional Mitigation scenario, including Common Mitigation Actions, would allow Stone Cabin Allotment cattle to continue grazing the area southeast of the Caliente Rail Route. Wild horse AMLs would remain unchanged in the Stone Cabin HMA, both Saulsbury HMAs, and both Little Fish Lake wild horse areas. Access to the area southeast of the Caliente Rail Route by domestic livestock and the general public would be provided by fencing both sides of the Caliente Railway and constructing seven (7) railroad underpasses to prevent livestock from accessing the railway itself while allowing access to its southeast side. The DOE would construct and maintain said fences and underpasses and hold Colvin harmless for any stray cattle that enter the fenced railway. Cattle-guards and gates would be constructed at the entrance at one side of each railroad underpass to allow for control of cattle movement. The Optional Mitigation scenario would also create exclusive livestock use areas for Colvin and for Stone Cabin Partnership.

Colvin's exclusive use areas would be the East Stone Cabin Valley north of US Highway 6, the Stone Cabin Valley south of US Highway 6 to the Nellis Air Force Range boundary, the eastern half of the Ralston Allotment south of US Highway 6 and north of the railway, and the McKinney Tanks Allotment south of US Highway 6. Together, the creation of such exclusive use areas, the construction of highway fences and underpasses, the construction of railroad fences and underpasses, the indemnity to Colvin for stray cattle within the fenced railway, the development of new pipelines and wells for stockwater, the construction of a pipeline to service the needs of the Yucca Mountain Repository and the greater Las Vegas metropolitan area, the acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences south of US Highway 6 from the Stone Cabin Allotment boundary to about the center of Ralston Valley, and reimbursement for additional monitoring expenses would adequately mitigate all of the impacts of the Caliente Rail Route affecting Colvin and would leave Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference.

The Stone Cabin Partnership's exclusive use areas would consist of the West Stone Cabin Valley north of US Highway 6, the McKinney Tanks Allotment north of US Highway 6, the Hunts Canyon Allotment, and the Ralston Allotment north of US Highway 6. The creation of such exclusive use areas and acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences north of US Highway 6 would leave Stone Cabin Partnership with a functional ranching operation with a total grazing capacity at least as large as its current preference.

Under the Optional Mitigation scenario, multiple use conflicts between domestic livestock, wild horses, and other range users would increase in localized areas due to disruptions to distribution and travel patterns caused by construction and operation of the Caliente Rail Route. While impacts to Colvin resulting from the railway would be mitigated, impacts to public interests related to watersheds, vegetation, visual resource management, wildlife habitat, livestock grazing, wild horses, lands, rights-of-way, utility corridors, recreation, Wilderness Study Areas, locatable minerals, and fire management would not be effectively mitigated.

STONE CABIN ALLOTMENT - PROFILE

Permittee: Colvin & Son, LLC
c/o Tom Colvin Jr.
Five Mile Ranch, US Highway 6
Tonopah, NV 89049

Contact: Al Steninger
P.O. Box 1330
Elko, NV 89803
Call: 775-738-4007
Fax: 775-753-7900

Season of Use: 10/16 - 5/15

Class of Stock: Cattle

Base Property: Land

Grazing System: Fall, Winter, & Spring Grazing

Transportation Route Preference:

Colvin & Son, LLC opposes the Caliente Rail Route unless impacts to its interests and the interests of others within the Stone Cabin and Ralston grazing allotments are adequately mitigated, as discussed herein. Colvin & Son, LLC views the No Action Alternative proposed for evaluation under the Nevada Rail EIS as an alternative that requires significant additional analysis because a greater number of rail shipments using smaller casks and/or the transfer of radioactive material from large rail shipping casks into smaller shipping casks compatible with legal-weight trucks would be required at intermodal transfer stations, and such shipping scenarios have not yet been analyzed.

Colvin & Son, LLC encourages reconsideration of the Valley Modified rail route because it would require 69% less rail to be constructed and operated than does the Caliente Rail Route. Colvin & Son, LLC also encourages consideration of alternative Nevada rail routes that would cross the Nellis Air Force Range and Nevada Test Site more or less due east from Yucca Mountain because they would be significantly shorter than the Caliente Rail Route.

Railway Fencing Preference:

Colvin & Son, LLC prefers that the Caliente Rail Route, if approved, be fenced to prevent any surface access by grazing permittees to the railway, at least in the Stone Cabin and Ralston allotments where the railway crosses Stone Cabin Valley, Cactus Flat, and Ralston Valley.

STONE CABIN ALLOTMENT - COMMENTS, IMPACTS, AND MITIGATION

I. Issues Affecting All Rail Route Alternatives

A. Issues Affecting Private Interests

1. Private Land: Colvin & Son, LLC (and its predecessors, hereinafter "Colvin") owns and controls a significant amount of deeded land in the Stone Cabin Valley and surrounding areas, as shown in the "Legal Description" portion of Attachment "A" affixed and hereby incorporated by reference.

Portions of this deeded land serve as base property for Colvin's Bureau of Land Management ("BLM") grazing preference, including the preference associated with the Stone Cabin Allotment, as shown in the "Colvin & Son, LLC Offered BLM Base Property" affixed as Attachment "B" and incorporated by reference. Portions of this deeded land also serve as base property for Colvin's US Forest Service ("USFS") grazing preference associated with the Wagon Johnnie and Little Fish Lake Allotments.

2. Grazing Preference and Forage Allocations: Colvin holds 12,390 AUMs of grazing preference associated with the Stone Cabin Allotment, of which 11,973 AUMs are active and 417 AUMs are suspended, as shown on page two of the February 2001 ten-year "Grazing Permit" affixed as Attachment "C" and incorporated by reference.

Another grazing permittee (Stone Cabin Partnership) holds 3,155 AUMs of grazing preference associated with the Stone Cabin Allotment, of which 1,990 AUMs are active and 1,165 AUMs are suspended.

Thus, there is a total of 15,545 AUMs of livestock grazing preference associated with the Stone Cabin Allotment, of which 13,963 AUMs are active (86% Colvin, 14% Stone Cabin Partnership). An additional 4,368 AUMs of forage has been allocated to wild horses, for a total grazing demand of 19,913 AUMs within the Stone Cabin Allotment, of which 18,331 AUMs are actively used (76% domestic livestock, 24% wild horses). See page A-12 of Attachment "F" affixed hereto.

Since November 15, 1996, Temporary Non-Renewable (TNR) BLM grazing authorizations have been granted to Colvin for winter grazing within the otherwise vacant Ralston Allotment during portions of 6 different calendar years. Colvin's Ralston TNR authorizations totaled 5,533 AUMs during the 1996-1997 winter grazing period, 5,841 AUMs during the 1997-1998 winter grazing period, 3,180 AUMs during the 1999 winter grazing period, and 3,866 AUMs during the 2002-2003 winter grazing period.

3. Nevada Grazing Rights: In addition to Federally recognized grazing preferences associated with Colvin's BLM and US Forest Service ("USFS") grazing permits, Colvin enjoys Nevada grazing rights based upon "customary or established use" which are recognized under Sections 568.230 through 568.290 of the Nevada Revised Statutes. Among other things, such statutes make it unlawful for any entity to graze livestock in a manner that will:

"prevent, restrict or interfere with the customary use of the land for grazing livestock by any person who, by himself or his grantors or predecessors, has become established, either exclusively or in common with others, in the grazing use of the land by operation of law or under and in accordance with the customs of the graziers of the region involved."

Such statutes further state:

"Any change in customary use so established must not be made after March 30, 1931, so as to prevent, restrict or interfere with the customary or established use of any other person or persons."

4. Range Improvements: Colvin holds an interest in numerous range improvements located within the Stone Cabin Allotment, including but not limited to those shown in the "Assignment of Range Improvements" affixed as Attachment "D" and hereby incorporated by reference.

5. Federal Grants: Range improvements constructed within the Stone Cabin Allotment prior to passage of the 1976 Federal Land Policy and Management Act ("FLPMA") were authorized under various acts dating between 1866 and 1976. The Act of July 25, 1866 (14 Statute at Large, 239-242) authorized private entities to hold right, title, and interest in water developments, reservoirs, ditches and other rights-of-way upon or across the public land and National Forest System land. Additional acts passed through 1976 granted private entities broad rights to hold right, title, and interest to improvements located upon public land and/or National Forest System land pursuant to the provisions of said acts. Range improvements constructed within the Stone Cabin Allotment after passage of FLPMA are authorized under both such prior acts and Range Improvement Permits/Cooperative Agreements pursuant to FLPMA and the Taylor Grazing Act.

6. Water Rights: Colvin holds numerous water right permits, certificates, claims, and applications to appropriate water from the State of Nevada in the Stone Cabin Valley and surrounding area, including but not limited to those shown in the "Abstract of Active Rights" affixed as Attachment "E" and incorporated by reference. Such water rights are bonafide private property interests which could be adversely impacted by the construction and operation of a Nevada rail route.

7. Wildlife, Recreation, Aesthetics, Cultural Resources, Wild Horses, and Wilderness Study Areas: Colvin has always striven to manage the ranch operation within the Stone Cabin Allotment in a manner that is consistent with the achievement of land use plan objectives for wildlife, recreation, aesthetic values, cultural resources, wild horses, and wilderness study areas. Such objectives are currently set forth by the "Approved Tonopah Resource Management Plan and Record of Decision" dated October 1997 ("1997 RMP/ROD") affixed as Attachment "F" and hereby incorporated by reference. By law, Colvin's ranch operation within the Stone Cabin Allotment must continue to be compatible with applicable land use plan objectives in the future.

8. Monitoring Investment: Since 1983, Colvin has invested a significant amount of funding, effort, and time in monitoring the effectiveness of its livestock management (and the management practices of federal land management agencies) in achieving 1997 RMP/ROD and previous land use plan objectives associated with Colvin's federal Grazing Preferences. Colvin's monitoring investment has included the selection and establishment of permanent vegetation study sites, wild horse censuses and distribution studies, use pattern mapping, monitoring relative changes inside and outside grazing exclosures, as well as the collection and evaluation of data regarding utilization by cattle, wild horses, and other herbivores, ecological condition, trend in ecological condition, trend in plant frequency, plant productivity, species composition, and regrowth potential. Between 1998 and 2004, Colvin's monitoring investment has averaged approximately 520 man hours (65 work days) annually, which equates to an annual monitoring expenditure of at least \$50,000 in today's currency, including wages and associated expenses. About half of Colvin's total monitoring investment, equivalent to \$25,000 annually, has been related directly to monitoring activities within the Stone Cabin Allotment.

9. Mining: There is presently a substantial amount of mining activity occurring annually within the Stone Cabin Allotment, particularly within the southern portion of the Allotment in and around the Golden Arrow area. Such mining rights and claims are additional private property interests which could be adversely impacted by the construction and operation of a Nevada rail route.

B. Issues Affecting Public Interests

The public land within the Stone Cabin Allotment is within the Battle Mountain Grazing District, Nevada. See Taylor Grazing Act, 43 U.S.C. § 315 (wherein "the Secretary of the Interior is authorized... to establish grazing districts... from any part of the public domain of the United States... and which in his opinion are chiefly valuable for grazing and raising forage crops").

The public land within the Stone Cabin Allotment is situated within the Tonopah Planning Area of the Battle Mountain Grazing District, Nevada. This planning area is controlled by and subject to the 1997 RMP/ROD adopted in accordance with the Federal Land Policy and Management Act. See 43 U.S.C. § 1712 (wherein "The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop... land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses"). The law provides that "All future resource management authorizations and actions (within the planning area), as well as budget or other action proposals to higher levels of the Bureau of Land Management and Department (of Interior), and subsequent more detailed or specific planning (within the planning area), **shall conform** to the approved (land use) plan." See 43 C.F.R. § 1610.5-3(a), emphasis added. See also 43 C.F.R. § 4100.0-8. See also 1997 RMP/ROD, p. 26 (wherein a Standard Operating Procedure applicable to the Tonopah Planning Area states that "All future authorizations will be in conformance with the RMP").

The 1997 RMP/ROD arose from a scoping process that began in 1990. Between 1990 and 1993, a Draft Environmental Impact Statement was prepared, ultimately concluding in the issuance of a "Draft Tonopah Resource Management Plan and Environmental Impact Statement" dated June 1993. Between 1993 and 1994, a Final Environmental Impact Statement was prepared, ultimately concluding in the issuance of the "Proposed Tonopah Resource Management Plan and Final Environmental Impact Statement" dated October 1994. Between 1994 and 1997, BLM evaluated the protests that were filed against the Proposed RMP/FEIS, ultimately concluding in the issuance of the 1997 RMP/ROD.

The 1997 RMP/ROD established resource management "objectives" and related RMP "determinations" relative to a range of resource uses within the Tonopah Planning Area, including, but not limited to, watershed, vegetation, visual resource management, wildlife habitat management, special status species, livestock grazing management, wild horses and burros, cultural resources, lands and rights-of-way, recreation, wilderness, fluid minerals, locatable minerals, and fire management. Each of these resource management "objectives", related RMP "determinations" and related "Standard Operating Procedures" ("SOPs") control the types of future resource management authorizations and actions that may occur on the public land within the Tonopah Planning Area. See 43 C.F.R. § 1610.5-3(a). See also 43 C.F.R. § 4100.0-8. The resource management "objectives", related RMP "determinations", and SOPs applicable to any rail alignment course within the Stone Cabin Allotment are discussed below. See 1997 RMP/ROD, p. 38 (which states "The Standard Operating Procedures section... explains most of the monitoring procedures and mitigation measures in common use").

At the outset, it must be stated that the nine year land use planning process culminating in the 1997 RMP/ROD did not consider or evaluate any rail alignment course within the Tonopah Planning Area, let alone specifically authorize the Caliente Rail Route. See also 43 U.S.C. §§ 1761-1771 (laws relating to rights-of-way issuance upon public land).

1. Watersheds: The 1997 RMP/ROD objective is “To maintain or improve watershed condition in the Tonopah Planning Area”. 1997 RMP/ROD, p. 5. See also Map 3 from the 1997 RMP/ROD.

* A related SOP states "Best Management Practices and appropriate mitigation will be identified during project-level environmental review and applied during project implementation for any ground-disturbing activity that may reduce soil productivity or cause surface erosion." 1997 RMP/ROD, p. 27.

The Stone Cabin Allotment includes the Stone Cabin watershed within the proposed rail alignment course for the Caliente Rail Route.

2. Vegetation: The 1997 RMP/ROD objective is “To provide for vegetative and ecological diversity.” 1997 RMP/ROD, p. 5.

* Related determinations are to “Manage the vegetation resource for desired plant communities” and “Management of the vegetative resource will provide for the physiological needs... of the key forage plant species.” 1997 RMP/ROD, p. 5. See also Map 5 from the 1997 RMP/ROD.

Desired plant communities for the Stone Cabin Allotment are currently expressed in terms of rangeland condition (ecological condition) to be achieved under the previous Tonopah Resource Area Management Framework Plan’s established objective to “maintain and improve, where necessary, the condition of the rangeland vegetation resource.” See 1997 RMP/ROD, Appendix 16, p. A-75.

3. Visual Resource Management. The 1997 RMP/ROD objective is “To designate visual resource management classes and maintain existing scenic qualities”. 1997 RMP/ROD, p. 6.

The Stone Cabin Allotment is designated as a VRM Class IV within and surrounding the proposed rail alignment course for the Caliente Rail Route. See Map 7 from the 1997 RMP/ROD.

* A related determination is to “Manage the Tonopah Planning Area for the following Visual Resource Management... classes.” 1997 RMP/ROD, p. 6. See also Map 7 from the 1997 RMP/ROD. The Class IV VRM rating provides “Contrasts may attract attention and be a dominant feature of the landscape in terms of scale; however, the change should repeat the basic elements (form, line, color, texture) inherent in the characteristic landscape.” 1997 RMP/ROD, p. 6. The Class IV VRM rating adds “Structures in the foreground distance zone (0-1/2 mile) often create a contrast that exceeds the VRM class... Approval by the Area Manager is required on a case-by-case basis to determine whether the structure(s) meet the acceptable VRM class standards.” 1997 RMP/ROD, p. 6.

* A related SOP states "Visual resources will continue to be evaluated, using the Contrast Rating process, as a part of activity and project planning. These evaluations will consider the significance of the proposed project and the visual sensitivity of the affected area. Stipulations will be developed and attached to project authorizations to maintain designated VRM classes. Stipulations may include requirements to locate activity sites behind topographic features to hide them from view, modify access routes, color buildings and equipment to blend in with their surrounds, develop projects in phases, etc. If VRM class objectives cannot be met, the impacts to visual resources will be detailed in the project-level environmental analysis and used by the Authorized Officer as a factor in the decision to authorize or deny a proposed action." 1997 RMP/ROD, p. 27.

4. Wildlife Habitat Management. The 1997 RMP/ROD objective is “To maintain and enhance wildlife habitat and provide for species diversity”. 1997 RMP/ROD, p. 7.

* A related determination is to “Manage mule deer habitat for best possible condition within the site potential...” 1997 RMP/ROD, p. 8. See also Map 10 from the 1997 RMP/ROD.

* A related SOP states "... wildlife habitat will continue to be evaluated as part of project-level planning. Such evaluation will consider the significance of the proposed project and the sensitivity of... wildlife habitat in the affected area. Stipulations will be attached as appropriate to assure compatibility of projects with management objectives for... wildlife habitat." 1997 RMP/ROD, p. 28.

The Stone Cabin Allotment includes year-long mule deer range within and surrounding a portion of the proposed rail alignment course for the Caliente Rail Route. See Map 10 from the 1997 RMP/ROD.

* A related determination is to “Manage pronghorn antelope habitat for best possible condition within the site potential. In conjunction with (NDOW)... continue to support the reintroduction and augmentation of antelope... Develop additional water sources.” 1997 RMP/ROD, p. 8. See also Map 9 from the 1997 RMP/ROD.

The Stone Cabin Allotment includes pronghorn antelope habitat within and surrounding most of the proposed rail alignment course for the Caliente Rail Route. See Map 9 from the 1997 RMP/ROD.

5. Special Status Species. The 1997 RMP/ROD objective is “To protect, restore, enhance, and expand habitat of species identified as threatened, endangered, or Nevada BLM Sensitive Species under the Endangered Species Act.” 1997 RMP/ROD, p. 9.

* A related determination is that “Habitat for all Federally listed threatened or endangered species or Nevada BLM Sensitive Species... will be managed to maintain or increase current populations...” 1997 RMP/ROD, p. 9.

* A related SOP states “It is BLM policy to carry out the management of Nevada BLM Sensitive Species consistent with multiple-use for conservation of these species and their habitats and ensure that actions authorized or funded do not contribute to the need to list any of these species as threatened or endangered. In order to prevent listing of Nevada BLM Sensitive Species, BLM may enter into Conservation Agreements or Species Management Plans with the U.S. Fish and Wildlife Service.” 1997 RMP/ROD, p. 28.

No threatened, endangered, or Nevada BLM Sensitive Species were identified within the Stone Cabin Allotment by the most recent BLM grazing evaluation completed in 1986.

6. Livestock Grazing Management. The 1997 RMP/ROD objective is “To create healthy, productive rangelands through implementation of the recommendations of the ongoing rangeland monitoring and evaluation program.” 1997 RMP/ROD, p. 12.

* A related determination is that “The Tonopah MFP and Tonopah Grazing EIS... provide the guidance necessary for the livestock grazing program.” 1997 RMP/ROD, p. 12. See also Map 16 from the 1997 RMP/ROD (wherein allotment boundaries are identified).

* A related determination is to “Manage livestock at initial stocking levels of 134,355 animal unit months”. 1997 RMP/ROD, p. 12.

* A related SOP states "The clearing of vegetation from project sites will be restricted to the minimum amount necessary to properly and safely complete the project." 1997 RMP/ROD, p. 29.

* A related SOP states "All disturbed areas will be rehabilitated, where such action is necessary and/or practical, to replace ground cover and prevent erosion... All fences will be designed to assure a minimum of impacts to wildlife, wild horses/burros, recreation, and visual resources." 1997 RMP/ROD, p. 29.

* A related SOP states "Alteration of sagebrush areas either through herbicides, prescribed burning, or by mechanical means will be in accordance with procedures specified in the Western States' Sage Grouse Guidelines and the Memorandum of Understanding between Nevada Division of Wildlife and the Nevada BLM..." 1997 RMP/ROD, p. 29.

* A related SOP states "Vegetative manipulations that will alter the potential natural plan composition will not be allowed in riparian areas..." 1997 RMP/ROD, p. 29.

The initial stocking level for the Stone Cabin Allotment is 13,963 active AUMs (plus 4,368 active AUMs for wild horses within Stone Cabin Herd Management Area ("HMA"), for a grand total of 18,331 active AUMs). 1997 RMP/ROD, p. A-12. See 43 C.F.R. §§ 4100.0-5, 4130.8-1(c) (wherein AUM or Animal Unit Month is defined and described).

7. Wild horses and burros. The 1997 RMP/ROD objective is "To manage wild horse and/or burro populations within Herd Management Areas at levels which will preserve and maintain a thriving natural ecological balance consistent with other multiple-use objectives." 1997 RMP/ROD, p. 14.

* A related determination is to "Manage wild horses... in 16 herd management areas". 1997 RMP/ROD, p. 14. See also Map 18 from the 1997 RMP/ROD (wherein Herd Management Areas are delineated).

* A related SOP states "It is the intent of the BLM to manage wild horses... within areas occupied in 1971... The suitability of some areas to support wild horses... will be reassessed as appropriate in light of new information from monitoring and emergency gathers." 1997 RMP/ROD, p. 30.

The Stone Cabin Herd Management Area encompasses the entirety of the Stone Cabin and Willow Creek Allotments. Part of the proposed rail alignment course for the Caliente Rail Route will cross the Stone Cabin HMA by diagonally bisecting the Stone Cabin Valley south of US Highway 6.

* A related determination is to “Manage wild horses... at appropriate management level... for each herd management area”. 1997 RMP/ROD, p. 14.

The Appropriate Management Level (“AML”) for the Stone Cabin HMA is 364 wild horses. The AML for the Saulsbury HMA is 40 and the AML for the BLM Little Fish Lake HMA is 39. 1997 RMP/ROD, p. 15. The AML for the USFS Little Fish Lake Wild Horse Territory is 93, for a total AML of 132 wild horses in the Little Fish Lake wild horse areas (Wagon Johnnie Allotment).

8. Cultural Resources. The 1997 RMP/ROD objective is “To protect archaeological, historical, paleontological, and sociocultural resources and manage for information potential... public values... and conservation... in conjunction with other multiple uses.” 1997 RMP/ROD, p. 16.

* A related determination is to “Classify and manage the following cultural resources... c. Manage for Conservation... historic sites associated with... locally important ranching operations...” 1997 RMP/ROD, pp. 16-17. See also 1997 RMP/ROD, pp. A-27.

Colvin & Son, LLC is the successor in interest to others that have grazed livestock upon the Stone Cabin Allotment and within the area of the proposed rail alignment course for the Caliente Rail Route for over 100 years and is a “locally important ranching operation.” In addition, the Stone Cabin Partnership (aka the Clifford Family) has grazed livestock upon the Stone Cabin Allotment and within the area of the proposed rail alignment course for the Caliente Rail Route for over 100 years and is a “locally important ranching operation.” Thus, any historic sites associated with the ranching operations within the Stone Cabin Allotment are to be managed for their conservation because such operations are “locally important ranching operations.” However, no such historic sites are known to exist in or adjacent to the Caliente Rail Route course within the Stone Cabin Allotment.

9. Lands and Rights-of-Way. The 1997 RMP/ROD objective is “To make lands available for community expansion and private economic development and to increase the potential for economic diversity.” 1997 RMP/ROD, p. 18.

* A related determination is “Make an additional 255,380 acres of public lands available for potential disposal.” 1997 RMP/ROD, p. 18. See also Map 20 from the 1997 RMP/ROD (wherein Land Tenure areas are identified).

Certain public land is available for disposal within the Stone Cabin Allotment, but outside the proposed rail alignment course for the Caliente Rail Route. See Map 20 from the 1997 RMP/ROD (identifying Land Tenure areas).

* A related determination is "All other lands within the Tonopah Planning Area in which there are no unresolvable conflicts with other resource values will be open to consideration for linear or areal rights-of-ways, leases, and land-use permits. Any such grants, leases, or permits will include appropriate stipulations to protect the area's special values." 1997 RMP/ROD, p. 19. See also Map 20 from the 1997 RMP/ROD (wherein "Utility Corridors" are identified). See also Map 22 from the 1997 RMP/ROD (wherein Right-of-Way avoidance areas are identified).

* A related SOP states "Unless these lands are dedicated to a specific use or uses, or are included within avoidance or exclusion areas, they are available for rights-of-way..." 1997 RMP/ROD, p. 32.

* A related SOP states "All new proposed withdrawals must be identified in an approved land-use plan." 1997 RMP/ROD, p. 32.

* A related SOP states "Unless the land has been dedicated for a specific use or uses, public land within the Tonopah Planning Area is available for consideration for linear rights-of-way, and for utility transportation and distribution purposes. Such land is also available for areal rights-of-way purposes." 1997 RMP/ROD, p. 33.

* A related SOP states "Prior to issuance of right-of-way authorization, a site-specific environmental analysis is performed which considers, among other things, habitat of threatened, endangered, or Nevada BLM Sensitive Species; sites or places listed or eligible for inclusion on the National Register of Historic Places; wilderness areas and areas being studied for wilderness; riparian areas; nesting/breeding habitat for animals; big game seasonal habitat; visual resources; and other considerations mandated by law." 1997 RMP/ROD, p. 33.

* A related SOP states "Designated right-of-way corridors within the Tonopah Planning Area are three miles wide except where topographic constraints exist. Grants for rights-of-way are still required for facilities placed within designated corridors. Designation of a corridor does not necessarily mean that future rights-of-way are restricted to corridors, nor does it mean that there is a commitment by the BLM to approve all right-of-way applications within corridors..." 1997 RMP/ROD, p. 33.

Certain public land within the Stone Cabin Allotment is subject to a Utility Corridor and the majority of the proposed rail alignment course for the Caliente Rail Route lies within such Utility Corridor. However, no right-of-way for any railway is identified in the 1997 RMP/ROD. See Map 20 from the 1997 RMP/ROD (wherein Utility Corridors are identified).

10. Recreation. A 1997 RMP/ROD objective is “To encourage safe, public access and recreational use of public lands while ensuring protection of important resource values.” 1997 RMP/ROD, p. 20.

* A related determination is “In order to protect sensitive resource values such as threatened and endangered species and cultural resources, designate 1,250,290 acres as limited to vehicle use (restrictions limiting use to existing roads, trails, and washes; seasonally, or by type of user) and keep 4,840,811 acres open to unrestricted vehicle use.” 1997 RMP/ROD, p. 20. See also Map 30 from the 1997 RMP/ROD (wherein Off Highway Vehicle Restrictions are identified).

* A related SOP states "Recreation resources will continue to be evaluated on an individual basis as part of activity and project-level planning. Such evaluations will consider the sensitivity of, and the impacts on, recreation resources in the affected area. Stipulations will be attached as appropriate to assure the compatibility of projects with recreation management objectives." 1997 RMP/ROD, p. 33.

* A related SOP states "Vehicle use in Wilderness Study Areas (WSAs) is currently managed as limited to existing (1980 inventory) roads, trails and ways..." 1997 RMP/ROD, p. 33.

No Off Highway Vehicle Restrictions are identified within or adjacent to the proposed rail alignment course for the Caliente Rail Route within the Stone Cabin Allotment. See Map 30 from the 1997 RMP/ROD (wherein Off Highway Vehicle Restrictions are identified).

Another 1997 RMP/ROD objective is “To provide dispersed recreation opportunities on all lands which are not designated as Special Recreation Management Areas.” 1997 RMP/ROD, p. 21. See also Appendix 10 from the 1997 RMP/ROD.

* A related determination is to “Designate the Tonopah Extensive Recreation Management Area to include the 6,026,570 acres not within a Special Recreation Management Areas. Develop minimal facilities necessary to meet the needs to dispersed recreational uses and to protect the environment. Approximately 60 acres will be used in construction of facilities...” 1997 RMP/ROD, p. 21.

No Special Recreation Management Areas are identified within or adjacent to the proposed rail alignment course for the Caliente Rail Route within the Stone Cabin Allotment.

Another 1997 RMP/ROD objective is “To provide a full range of recreational settings, from rural to wilderness, for the pursuit of a wide variety of recreational opportunities.” 1997 RMP/ROD, p. 21.

* A related determination is to “Manage 465,725 acres of semiprimitive motorized values. Manage 90,370 acres of primitive and 339,120 acres of semiprimitive nonmotorized recreation opportunity settings. Primitive and semiprimitive nonmotorized lands will be managed for Class II Visual Resource Management.” 1997 RMP/ROD, p. 21. See also Map 28 from the 1997 RMP/ROD (wherein Recreation Opportunity Spectrum restrictions are identified). See also 1997 RMP/ROD, pp. A-25, A-26.

No specific Recreation Opportunity Spectrum restrictions are identified within or adjacent to the proposed rail alignment course for the Caliente Rail Route within the Stone Cabin Allotment. See Map 28 from the 1997 RMP/ROD (wherein Recreation Opportunity Spectrum restrictions are identified). Thus, the entire proposed rail alignment course for the Caliente Rail Route within the Stone Cabin Allotment is classified as either roaded natural or rural with respect to the Recreation Opportunity Spectrum. See Appendix 10 from the 1997 RMP/ROD.

11. Wilderness. The 1997 RMP/ROD objective is “To manage all lands released from wilderness consideration by Congress as a part of the full spectrum of multiple uses within the Tonopah Planning Area.” 1997 RMP/ROD, p. 22. See also Map 26 from the 1997 RMP/ROD (wherein Wilderness Study Areas are identified).

* A related determination is “If released by Congress from further wilderness consideration, Wilderness Study Areas will be: 1. Managed as proposed in other resource programs (see Map 26 from the 1997 RMP/ROD). 2. Manage for 90,370 acres of primitive values, 245,780 acres of semiprimitive nonmotorized values, and 268,385 acres of semiprimitive motorized values. 3. Manage as Visual Resource Management Class II areas to comply with BLM policy. No competitive events will be authorized.” 1997 RMP/ROD, p. 20. See also 1997 RMP/ROD, p. 27 (VRM classes as related to WSAs).

* A related SOP states “BLM policy requires that all... (WSAs) be managed in accordance with the provisions of Section 603(c) of the Federal Land Policy and Management Act and the BLM Interim Management Policy for Lands Under Wilderness Review (IMP) so as not to impair their suitability for preservation of wilderness... The IMP contains specific management direction for activities in WSAs which may occur or be authorized.” 1997 RMP/ROD, p. 34.

No part of the Rawhide or Kawich Wilderness Study Areas within the Stone Cabin Allotment lie within or adjacent to the proposed rail alignment course for the Caliente Rail Route. See Map 26 from the 1997 RMP/ROD (wherein Wilderness Study Areas are identified).

12. Utility Corridors. The 1997 RMP/ROD objective is "To facilitate the placement of major transportation and utility systems passing through the Tonopah Planning Area and to minimize conflicts with other resource values." 1997 RMP/ROD, p. 22. See also Map 20 from the 1997 RMP/ROD (wherein Utility Corridors are identified).

* A related determination is "Designate transportation and utility corridors on 668 lineal miles (this includes those previously designated in the Esmeralda-Southern Nye Resource Management Plan...)." 1997 RMP/ROD, p. 22.

Certain public land within the Stone Cabin Allotment (along US Highway 6 and southwest to the Nellis Air Force Range boundary) was designated as a Utility Corridor and the majority of the proposed rail alignment course for the Caliente Rail Route lies within such corridor. However, no right-of-way for any railway is identified in the 1997 RMP/ROD. See Map 20 from the 1997 RMP/ROD (wherein Utility Corridors are identified).

13. Fluid Minerals. The 1997 RMP/ROD objective is "To provide opportunity for exploration and development of fluid minerals such as oil, gas, and geothermal resources, using appropriate stipulations to allow for the preservation and enhancement of fragile and unique resources." 1997 RMP/ROD, p. 22. See also Map 32 from the 1997 RMP/ROD (wherein Fluid Mineral Potential is identified).

* A related determination is "A total of 5,360,477 acres... will be open to fluid mineral leasing subject to standard lease terms and conditions." 1997 RMP/ROD, p. 22.

* A related SOP states "BLM actively encourages and facilitates the private development of public mineral resources in a manner that satisfies national and local needs, and provides for economically and environmentally sound exploration, extraction, and reclamation practices." 1997 RMP/ROD, p. 35.

* A related SOP states "Land-use plans and multiple-use management decisions of the BLM will recognize that mineral exploration and development can occur concurrently or sequentially with relation to other resource uses." 1997 RMP/ROD, p. 35.

No Fluid Mineral potential has been identified within or adjacent to the proposed rail alignment course for the Caliente Rail Route within the Stone Cabin Allotment. See Map 32 from the 1997 RMP/ROD (wherein Fluid Mineral Potential is identified).

14. Locatable Minerals. The 1997 RMP/ROD objective is "To provide opportunity for exploration and development of locatable minerals such as gold, silver, copper, lead, zinc, molybdenum, etc., consistent with the preservation of fragile and unique resources in areas identified as open to the operation of the mining laws." 1997 RMP/ROD, p. 23. See also Map 36 from the 1997 RMP/ROD (wherein Locatable Mineral Potential is identified). See also Map 24 from the 1997 RMP/ROD (wherein mining withdrawal areas are identified).

* A related determination is "A total of 6,028,948 acres... will be open to the operation of the mining laws." 1997 RMP/ROD, p. 23.

* A related SOP states "BLM provides for mineral entry, exploration, location, and operations pursuant to the mining laws in a manner that 1) will not unduly hinder the mineral activities, and 2) assures that these activities are conducted in a manner which will prevent undue or unnecessary degradation of the public land." 1997 RMP/ROD, p. 35.

High, Moderate, and Low locatable mineral potential areas have been identified within the Stone Cabin Allotment within and adjacent to the proposed rail alignment course for the Caliente Rail Route. See Map 36 from the 1997 RMP/ROD (wherein Locatable Mineral Potential is identified).

15. Fire Management. The 1997 RMP/ROD objective is "To protect natural resources from unacceptable damage by fire in a cost-effective manner with a high regard for private property and safety. Promote resource management through prescribed fire to maintain the natural component of the ecosystem." 1997 RMP/ROD, p. 25. See also Map 38 from the 1997 RMP/ROD (wherein Fire Management Zones are identified).

* A related determination is "All wildfires in Fire Management Zone 1 will receive aggressive initial attack, to contain all fires in intensity levels 1 through 6, 90 percent of the time to 300 acres or less." 1997 RMP/ROD, p. 25.

* A related determination is "If an approved natural prescribed fire plan is written, some wildfires in Fire Management Zone 2 may be allowed to burn to promote a more natural fire regime..." 1997 RMP/ROD, p. 25.

* A related SOP states "The fire management program is guided by the approved Battle Mountain District Fire Management Activity Plan and this RMP." 1997 RMP/ROD, p. 37.

* A related SOP states "Every wildfire within the Tonopah Planning Area will have an appropriate action taken..." 1997 RMP/ROD, p. 37.

Fire Management Zones 1 and 2 exist within and around the proposed rail alignment course for the Caliente Rail Route in the Stone Cabin Allotment. See Map 38 from the 1997 RMP/ROD (identifying Fire Management Zones).

C. Legal Defects

1. Lack of Public Participation by "Other Interested Persons" Within the Stone Cabin Allotment and Neighboring Allotments. The "Record of Decision on Mode of Transportation and Nevada Rail Corridor for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV" dated April 2, 2004 is flawed as related to the "Rail Corridor Decision". See 69 Fed.Reg. 18557, 18564-18565 (4/8/04). The "Rail Corridor Decision" states:

"Department (of Energy) has decided to select the preferred rail corridor alternative, the Caliente corridor, in which to evaluate alignments for a rail line."

See 69 Fed.Reg. 18557, 18564 (4/8/04). However, at no time during the EIS process did the Department of Energy ("DOE") notify the owners of the public land interests and other private interests within the Stone Cabin Allotment and neighboring allotments which the Caliente Rail Route intends to cross. In fact, Colvin and other such owners were not aware of the EIS process until immediately before the "Rail Corridor Decision" was issued. On March 11, 2004, an Owner of the Twin Springs Ranch provided comment and requested information upon learning of the EIS process, but DOE provided no response to such comment before issuance of their "Rail Corridor Decision" and DOE did not re-initiate the NEPA process to include such owners in violation of NEPA and CEQ regulations. See 40 C.F.R. § 1501.7(a)(1) (wherein an agency must "(i)nvite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons"). See also Northwest Coalition for Alternatives to Pesticides v. Lyng, 844 F.2d 588, 594-595 (9th Cir. 1988); Wyoming v. U.S. Dept. of Agri, 277 F.Supp.2d 1197, 1219-1221 (D.Wyo. 2003). Unquestionably, the owners of the interests within the Stone Cabin Allotment and neighboring allotments to be crossed are and were within the category of "other interested persons". Accordingly, the "Rail Corridor Decision" (see 69 Fed.Reg. 18557, 18564-18565) and the "Notice of Intent" (see 69 Fed.Reg. 18565-18569) must be vacated, pending re-initiation of the NEPA

process to include at least the owners of the interests within the Stone Cabin Allotment and neighboring allotments which the Caliente Rail Route intends to cross.

2. No FLPMA/NEPA Documentation Prepared by BLM. The "Record of Decision on Mode of Transportation and Nevada Rail Corridor for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV" dated April 2, 2004 is flawed as related to the "Rail Corridor Decision". See 69 Fed.Reg. 18557, 18564-18565 (4/8/04). The "Rail Corridor Decision" states:

"Department (of Energy) has decided to select the preferred rail corridor alternative, the Caliente corridor, in which to evaluate alignments for a rail line."

See 69 Fed.Reg. 18557, 18564 (4/8/04). However, it was not the authority of the Department of Energy to select as the preferred rail corridor the Caliente corridor as it exists upon public land, especially within the Tonopah Planning Unit. The Standard Operating Procedure for "Environmental Review and Management" within the 1997 RMP/ROD states:

"In compliance with NEPA and CEQ regulations, **BLM will prepare site-specific environmental reviews** before actions proposed in this RMP/EIS are implemented, or **prior to approval of any project authorized on public lands**. The environmental reviews provide site-specific assessments of the impacts from implementing these actions. As appropriate, these reviews are documented in... Environmental Impact Statements and Records of Decision."

Emphasis added. See 1997 RMP/ROD, p. 26. Here, BLM did not prepare an EIS upon which the "Rail Corridor Decision" was made, but instead DOE prepared an EIS. Any site-specific environmental review of any proposed rail right-of-way across public land within the Tonopah Planning Area should have been prepared, selected, and decided by BLM, not DOE. See also 43 U.S.C. § 1761(a)(6) (wherein the authority to grant a rail right-of-way upon public land is vested in the Secretary of the U.S. Department of Interior, aka BLM).

In addition, the "Notice of Intent to Prepare an Environmental Impact Statement for the Alignment, Construction, and Operation of a Rail Line to a Geological Repository at Yucca Mountain, Nye County, NV" dated April 2, 2004 is flawed for the same reason, since the "Notice of Intent" is contemplating the preparation of another EIS document by DOE, not by BLM. See 69 Fed.Reg. 18565-18569 (4/8/04). While DOE "invites" BLM in their "Notice of Intent" to "cooperat(e)" in the preparation of the EIS (69 Fed.Reg. 18568), such invitation does not satisfy

the requirements of the 1997 RMP/ROD and/or abrogates BLM's authority to issue rail rights-of-way upon public land within (at least) the Tonopah Planning Area under the Federal Land Policy and Management Act. See also letter from Brian Sandoval, Nevada Attorney General, to James L. Connaughton, Chairman of the U.S. Council of Environmental Quality, dated January 26, 2005 (wherein the Nevada Attorney General complains that DOE appears to be usurping legal and regulatory requirements "in assigning to itself lead agency status for the evaluation and construction of what promises to be the largest new rail project in North America in many decades").

Accordingly, the "Rail Corridor Decision" (see 69 Fed.Reg. 18557, 18564-18565) and the "Notice of Intent" (see 69 Fed.Reg. 18565-18569) must be vacated, pending the preparation of requisite NEPA documentation by BLM itself.

3. False Assumptions and Faulty Logic was Used to Select the Caliente Rail Route Over Alternative Rail Routes. The "Record of Decision on Mode of Transportation and Nevada Rail Corridor for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, NV" dated April 2, 2004 is flawed as related to the "Rail Corridor Decision". See 69 Fed.Reg. 18557, 18564-18565 (4/8/04). The "Rail Corridor Decision" -- to select the Caliente Rail Route -- was based upon false assumptions and faulty logic.

The DOE's "Basis for Rail Corridor Decision" states "The Department considered potential land use conflicts and their potential to affect adversely construction of a rail line...", then concludes that the Caliente Rail Route "appears to have the fewest land use or other conflicts...". The DOE's Decision implies that potential conflicts with the Desert National Wildlife Range and local community development plans for the Las Vegas metropolitan area associated with the Valley Modified Rail Route exceed potential conflicts associated with the Caliente Rail Route. See 69 Fed.Reg. 18564 (4/8/04). However, the "Rail Corridor Decision" and Yucca FEIS fail to consider and recognize numerous land uses and potential conflicts associated with the Caliente Rail Route which skewed the DOE's conclusions regarding potential conflicts to favor the Caliente Rail Route over the Valley Modified Rail Route and other alternative routes.

The DOE's "Rail Corridor Decision" states "DOE also considered concerns expressed by the public in Nevada... that DOE should avoid rail corridors in the Las Vegas Valley." Rejecting the Valley Modified Rail Route based upon these concerns is illogical because the nuclear waste would come in similar proximity to numerous metropolitan areas as it crossed the national rail system, such as Denver and Salt Lake City. This would be particularly true if train "consists" (complete train assemblies) were dedicated to the shipment of nuclear waste rather than intermixed with other commercial loads because such dedicated shipments would simply be switched onto the new Nevada railway and travel

through the greater Las Vegas metropolitan area without ever stopping, just as they would through other metropolitan areas. The DOE itself recognizes that “environmental impacts identified in the Final EIS do not provide a clear basis for discriminating among alternative rail corridors in Nevada”, and that “DOE does not consider the differences among the corridor alternatives to be sufficient to make any of them environmentally preferable.” See 69 Fed.Reg. 18563 (4/8/04). Thus, despite “concerns expressed by the public in Nevada”, it was illogical for the DOE to favor the Caliente Rail Route over the Valley Modified Rail Route and other alternative routes when the DOE flatly concluded that environmental risks associated with all of the alternatives are essentially equal.

II. Issues Specific to the No Action Alternative

The No Action Alternative proposed for evaluation under the Nevada Rail EIS requires the DOE to analyze the following actions that were not previously analyzed: 1) effects associated with a greater number of rail shipments using smaller casks; 2) effects associated with the transfer of radioactive material from large rail shipping casks into smaller shipping casks compatible with legal-weight trucks at intermodal transfer stations; or, 3) some combination of these actions. Without a new Nevada rail route, the “Mostly Rail” scenario of the Yucca FEIS could not be implemented on the existing national rail system in combination with the “Mostly Legal-Weight Truck” scenario through Nevada because a vast majority of the rail shipping casks would exceed legal-weight truck limits. To remedy this situation would require either a far greater number of rail shipments using smaller casks than was previously analyzed, or the transfer of radioactive material into smaller shipping casks at intermodal transfer stations (or some combination of these actions). Such shipping scenarios were not analyzed under the Yucca FEIS, so they need to be analyzed under the Nevada Rail EIS.

A. Issues Affecting Private Interests: Under the proposed No Action Alternative, impacts upon Colvin’s interests in the Stone Cabin Allotment would be negligible because nuclear waste would primarily be shipped through Nevada to the Yucca Mountain Repository across US Interstate 15 and US Highway 95 south of the Nellis Air Force Range, avoiding the Stone Cabin Allotment by approximately 75 miles.

B. Mitigation of Impacts to Private Interests: There would be no need to mitigate impacts to Colvin within the Stone Cabin Allotment under the proposed No Action Alternative because the significant distance between the Allotment and truck shipping routes renders any impacts negligible.

C. Monitoring of Impacts to Private Interests: There would be no need to monitor impacts to Colvin within the Stone Cabin Allotment under the proposed No Action Alternative because the significant distance between the Allotment and truck shipping routes renders any impacts negligible.

D. Issues Affecting Public Interests: Impacts to the public within the Stone Cabin Allotment under the proposed No Action Alternative are anticipated to be negligible because of the significant distance between the Allotment and truck shipping routes.

E. Mitigation of Impacts to Public Interests: There would be no need to mitigate impacts to the public within the Stone Cabin Allotment under the proposed No Action Alternative because the significant distance between the Allotment and truck shipping routes renders any impacts negligible.

F. Monitoring of Impacts to Public Interests: There would be no need to monitor impacts to the public within the Stone Cabin Allotment under the proposed No Action Alternative because the significant distance between the Allotment and truck shipping routes renders any impacts negligible.

III. Issues Specific to the Selection of the Caliente Rail Route Rather Than Alternative Routes

The Yucca FEIS indicates that the Chalk Mountain Rail Route was relegated to “non-preferred” status early in the analysis process because the Air Force believed it would be unable to adequately adjust its schedule to meet training requirements if a railway bisected the Nellis Air Force Range and Nevada Test Site. In the early analysis period there was talk that several trains would travel the railway each day. In contrast, the Yucca FEIS estimates that at most 3 to 5 trains a week would travel the new Nevada rail system to ship waste casks and other needed items to the Yucca Mountain Repository. It must be assumed that an additional 3 to 5 trains a week would travel the new Nevada rail system to return to the transfer station with empty shipping cars. Thus, the total traffic across the new Nevada rail system under the scenario analyzed by the Yucca FEIS would average 6 to 10 trains a week.

During the Nuclear Waste Technical Review Board’s winter board meeting in Caliente, Nevada on February 10, 2005, the DOE disclosed that its Yucca FEIS analysis was based upon the assumption that nuclear waste would primarily be shipped using 125 to 150-ton shipping casks under the “Mostly Rail” scenario. In contrast, such shipments are now expected to occur in smaller casks because subsequent discussions with facilities that spent nuclear fuel will be shipped from revealed that many of them do not have the capability to load and handle such large shipping casks. Thus, the number of trains a week required to transport a greater number of smaller shipping casks is likely to significantly exceed the average 6 to 10 trains a week estimated by the Yucca FEIS.

It is probable that long-term use of the new Nevada rail route will include substantially more rail traffic because additional repository storage will likely be put into service. The Yucca FEIS was limited to the analysis of impacts associated with the transportation and storage of 70,000 metric tons of radioactive waste (spent nuclear

al and high-level radioactive waste), not because that is the storage limit of the Yucca Mountain area, nor because that is the total amount of radioactive waste that will need to be shipped and stored within the foreseeable future, but because the 1982 Nuclear Waste Policy Act ("NWPA"), as amended, categorically restricted such analysis to an initial repository site designed to store no more than 70,000 metric tons of such waste.

There is already close to 70,000 metric tons of radioactive waste being stored in temporary facilities across the nation, with more being generated each day. Given these facts, it is certain that far more than 70,000 metric tons of radioactive waste will need to be stored in repositories within the foreseeable future. It is very likely, and most logical, that once the initial Yucca Mountain repository site is operating, knowledge about the area's suitability as a radioactive waste storage repository and the infrastructure associated with the initial repository, including the Nevada rail route, will be used to justify expansion or construction of additional repositories at the Yucca Mountain waste storage complex.

When additional storage capacity is put into service at the Yucca Mountain complex, the amount of radioactive waste being shipped to Nevada will increase, either raising the frequency of rail traffic over the railway, extending the amount of time needed for operation, or a combination of both. The Yucca FEIS analyzed and evaluated the emplacement of the total projected inventory of commercial spent nuclear fuel and DOE high-level radioactive waste (119,000 metric tons of heavy metal) at Yucca Mountain under "Inventory Module 1" of its cumulative impacts section, concluding under this scenario that about twice as many shipment casks would be transported over a time period that would be extended by another 14 years, for a total of 20,000 shipping casks transported over a 38 year period. Assuming the initial railway construction takes 4 years and the additional repository storage capacity takes an additional 5 years to be put into service, an average of 3 to 5 trains per week would ship 500 casks a year during years 5 through 9 (after the railway is constructed, but before the additional repository capacity is in service), which equates to an average of 6 to 10 train trips a week including return trips with empty shipping cars. At the end of year 9 about 17,500 shipping casks would be left to be transported in years 10 through 38 (after the additional repository capacity is in service). This would require an average of 4 to 6 train shipments a week over the Nevada railway in years 10 through 38, which equates to an average of 8 to 12 train trips a week including return trips with empty shipping cars. The number of train trips a week could be substantially higher if shipping casks averaging less than 125 to 150-tons each are used.

The rate at which radioactive waste is generated will likely increase once long-term facilities to store such waste are in place. Existing nuclear power plants are likely to increase their output and additional plants are likely to be approved and put into service once the Yucca Mountain Repository is operating. Likewise, the generation of radioactive waste by the DOE and other research facilities will likely increase once long term facilities to store such waste are in place. Each of these potential future

developments would significantly increase the total amount of nuclear waste that would be transported and stored in the foreseeable future. It is not unreasonable to project that in the foreseeable future the number of shipments across the new Nevada railway could increase to an average of 12 to 15 trains per week, for a total of 24 to 30 trains per week including return trips with empty shipping cars. Such an increase in rail traffic would require several train trips each day. Thus, a reasonable analysis of the Nevada rail route alternatives must anticipate up to 4 years of near constant traffic during construction, and at least an additional 34 years of relatively frequent to very frequent train traffic.

During the Nuclear Waste Technical Review Board's winter board meeting in Caliente, Nevada on February 10, 2005, it became evident that the DOE's "Rail Corridor Decision" and prior analyses under the Yucca FEIS failed to recognize numerous private property interests that are associated with the Caliente Rail Route. The DOE's "Rail Corridor Decision" and Yucca FEIS recognized private property interests to the surface estate (deeded lands) which were depicted upon their "Caliente Corridor Land Ownership and Use" map, but failed to recognize other legitimate private property interests associated with land use across the length of the proposed Caliente Rail Route, including water and mineral rights and claims. The failure to understand, recognize, and evaluate potential impacts associated with private property interests other than surface ownership skewed the DOE's conclusions regarding potential land use conflicts to favor the Caliente Rail Route over the Valley Modified Rail Route and other alternative routes.

The DOE's "Rail Corridor Decision" expressed concern over potential conflicts with the "Desert National Wildlife Range and local community plans for development in the greater Las Vegas metropolitan area" associated with the Valley Modified Rail Route, but failed to recognize similar public concerns regarding Visual Resource Management restrictions, wildlife habitat designations, livestock grazing permits, wild horse Herd Management Areas, cultural resources, land disposal, recreation designations, Wilderness Study Areas, and mineral designations that would be impacted by the Caliente Rail Route. Failure to recognize and evaluate such potential impacts skewed the DOE's conclusions regarding potential land use conflicts to favor the Caliente Rail Route over the Valley Modified Rail Route and other alternative routes.

Colvin encourages reconsideration of the Valley Modified Rail Route because it would require 69% less rail to be constructed and operated than would the Caliente Rail Route. While the Valley Modified route would put the Nevada rail shipments in closer proximity to denser human populations associated with Las Vegas and the surrounding area than would the Caliente Rail Route, it would seem that such concerns were inflated in the DOE's evaluations and decisions given the facts that: 1) shipments will go through areas with equally high human densities as the waste is transported across the existing national rail system in locations such as Denver and Salt Lake City; and, 2) the DOE recognizes that "environmental impacts... do not provide a clear basis for

discriminating among alternative rail corridors in Nevada” and the DOE “does not consider the differences among the corridor alternatives to be sufficient to make any of them environmentally preferable.” See 69 Fed.Reg. 18563 (4/8/04).

A. Issues Affecting Private Interests: The Valley Modified Rail Route, and other alternatives to the Caliente Rail Route under the Yucca FEIS, would result in negligible impacts upon Colvin’s interests in the Stone Cabin Allotment because nuclear waste would primarily be shipped to the Yucca Mountain Repository across routes that would avoid the Stone Cabin Allotment by great distances.

B. Mitigation of Impacts to Private Interests: There would be no need to mitigate impacts to Colvin within the Stone Cabin Allotment under the Valley Modified Rail Route and other alternatives to the Caliente Rail Route evaluated by the Yucca FEIS because the significant distance between the Allotment and shipping routes renders any impacts negligible.

C. Monitoring of Impacts to Private Interests: There would be no need to monitor impacts to Colvin within the Stone Cabin Allotment under the Valley Modified Rail Route and other alternatives to the Caliente Rail Route evaluated by the Yucca FEIS because the significant distance between the Allotment and shipping routes renders any impacts negligible.

D. Issues Affecting Public Interests: Impacts to the public within the Stone Cabin Allotment under the Valley Modified Rail Route and other alternatives to the Caliente Rail Route evaluated by the Yucca FEIS are anticipated to be negligible because of the significant distance between the Allotment and shipping routes.

E. Mitigation of Impacts to Public Interests: There would be no need to mitigate impacts to the public within the Stone Cabin Allotment under the Valley Modified Rail Route and other alternatives to the Caliente Rail Route evaluated by the Yucca FEIS because the significant distance between the Allotment and shipping routes renders any impacts negligible.

F. Monitoring of Impacts to Public Interests: There would be no need to monitor impacts to the public within the Stone Cabin Allotment under the Valley Modified Rail Route and other alternatives to the Caliente Rail Route evaluated by the Yucca FEIS because the significant distance between the Allotment and shipping routes renders any impacts negligible.

IV. Issues Specific to the Caliente Rail Route

Probable increases in the total transportation load to be shipped across the Nevada railway in the foreseeable future must be taken into consideration when evaluating the Caliente Rail Route. As previously discussed, it can reasonably be expected that as

many as 24 to 30 trains a week (including return trips with empty shipping cars) could traverse the Caliente Rail Route during its peak intake period in years 10 through 38 of the repository's operation.

A. Issues Affecting Private Interests

1. Private Land: Construction and use of the Caliente Rail Route would adversely impact Colvin's use and control of its deeded lands in the Stone Cabin Allotment south of US Highway 6, particularly those parcels of land highlighted on the "Plat Maps" affixed to Attachment "A" and hereby incorporated by reference because construction of the Caliente Rail Route would severely limit access to said parcels from the north and west. Access to such deeded parcels is already prohibited from the south by the Nellis Air Force Range and from the east by the Kawich Mountain Range. Construction and use of the Caliente Rail Route would create an island isolating these deeded parcels from the rest of the Colvin private land holdings, and access to that island would only be possible by crossing the Caliente railway. The same island effect would impact private holdings of others in the Golden Arrow area that are currently supporting extensive mining activities.

2. Grazing Preference: Construction and use of the Caliente Rail Route would adversely impact Colvin's BLM grazing preference associated with the Stone Cabin Allotment because the railway would diagonally bisect the entire Stone Cabin Valley south of US Highway 6.

Railway construction activities would result in acute disruptions to the distribution and travel patterns of Colvin cattle, wild horses, and wildlife. Such disruptions would intensify animal concentrations around wells and existing water sources to the west of the Rail Route where animal concentrations are presently approaching the level that can be sustained without adversely impacting soils, vegetation, and other natural resources. Furthermore, such disruptions would drive a significant amount of grazing activity away from the south central portion of Stone Cabin Valley that produces the majority of the Allotment's valuable winter forage, pushing the animals further into the foothills where winter forage is sparser and snow depths are greater. The overall result would be a significant decrease in the winter performance and condition of Colvin cattle, and a dramatic increase in effort and cost to care for and manage cattle dispersed by construction disruptions. Colvin cattle have been born and raised in an open desert environment and are not accustomed to human presence and the noise and movement associated with construction activities. It can reasonably be assumed that Colvin cattle will avoid rail construction activities by staying about 1 mile away. Thus, the 29 mile Rail Route through the Stone Cabin Allotment could potentially displace cattle grazing from 58 square miles (37,120 acres) of the Allotment's prime winter range each year during the construction phase.

Depending on how much traffic increases along roads to access the Rail Route during construction, the amount of area from which cattle grazing would be displaced may be significantly greater. Assuming that construction access is made primarily along the main County road that runs through the center of Stone Cabin Valley from US Highway 6 to the Nellis Air Force Range boundary, cattle grazing could be displaced from approximately 83 square miles (53,120 acres) of the Allotment's prime winter range each year during the construction phase.

Use of the Caliente Rail Route would cause chronic disruptions to the distribution and travel patterns of Colvin cattle, wild horses, and wildlife that would be similar to those described above for the construction phase. Desert born and raised Colvin cattle will view the railway as a continuous cattle guard which will act as a barrier and create an island of approximately 168 square miles (107,520 acres) in the southeast corner of the Stone Cabin Allotment between the Rail Route, the Kawich mountains, and the Nellis Air Force Range, virtually eliminating livestock access during the initial 24-year life of the project. Furthermore, it is reasonable to expect that once the Rail Route is in place, it will be used beyond the 24-year life of the initial project, either to service additional repository storage phases which will likely be approved in the Yucca Mountain area, or for commercial purposes after the initial project is complete. Thus, the island created by the Caliente Rail Route can reasonably be expected to eliminate livestock access in the southeast corner of the Stone Cabin Allotment into the indefinite future.

Finally, despite the fact that the Rail Route will effectively serve as a barrier to the free movement of cattle onto the island created in the southeast corner of the Stone Cabin Allotment, and despite the fact that construction and operation activities will drive large numbers of cattle away, some cattle are likely to occasionally loaf or rest on the railway where they could be struck by equipment during construction or by passing trains during operation of the railway.

3. Nevada Grazing Rights: Impacts to Colvin's Nevada grazing rights due to the Caliente Rail Route would be essentially identical to the impacts to Colvin's grazing preference discussed under item #2 above.

4. Range Improvements: Construction and use of the Caliente Rail Route would adversely impact Colvin's interest in those range improvements located within the island that would be created in the Stone Cabin Allotment between the Rail Route, Kawich mountains, and Nellis Air Force Range. The range improvement projects within such island are indicated with an exclamation mark ("!") on the second page of Attachment "D" attached hereto. The utility of these range improvements to Colvin would be severely impacted during the construction phase, and would be all but eliminated once construction was complete because the Rail Route would function as a continuous cattle guard, blocking livestock access to the southeast corner of the Stone Cabin Allotment.

Construction and use of the Caliente Rail Route would also adversely impact Colvin's interest in those range improvements located within the Stone Cabin Allotment which lie northwest of the Rail Route within approximately 1 mile. Such range improvement projects are indicated with an ampersand ("&") on the second page of Attachment "D" attached hereto. The utility of these range improvements to Colvin would be adversely impacted during construction and operation of the Rail Route because increased human activity, noise, and movement would drive Colvin cattle away from range improvements located within about 1 mile of the railway, significantly reducing their usefulness to the Colvin ranch operation. Such impacts would become more severe as the rail traffic increases to meet foreseeable future transportation needs.

5. Federal Grants: The impacts to Colvin's range improvements described above also apply to improvements authorized under Federal grants pursuant to acts passed between 1866 and 1976.

6. Water Rights: Construction and use of the Caliente Rail Route would adversely impact Colvin's water rights located within the island that would be created in the Stone Cabin Allotment between the Rail Route, Kawich mountains, and Nellis Air Force Range. Colvin water rights associated with Colvin deeded lands located within such island are indicated with a pound sign ("#") on Attachment "E" attached hereto. Additional Colvin water rights located within such island not associated with Colvin deeded lands are indicated with an exclamation mark ("!") on Attachment "E" attached hereto. The utility of these water rights to the Colvin livestock operation would be severely impacted during construction and operation of the Rail Route because the distribution and travel patterns of Colvin cattle would be disrupted, blocking livestock access to the southeast corner of the Stone Cabin Allotment.

Construction and use of the Caliente Rail Route would also adversely impact Colvin's interest in water rights located within the Stone Cabin Allotment which lie northwest of the Rail Route within approximately 1 mile. Such water rights are indicated with an ampersand ("&") on Attachment "E" attached hereto. The utility of these water rights to the Colvin livestock operation would be adversely impacted during construction and operation of the Rail Route because increased human activity, noise, and movement would drive Colvin cattle away from watering facilities located within about 1 mile of the railway, significantly reducing their usefulness to the Colvin ranch operation. Such impacts would become more severe as the rail traffic increases to meet foreseeable future transportation needs.

7. Wildlife, Recreation, Aesthetics, Cultural Resources, Wild Horses, and Wilderness Study Areas: Construction and use of the Caliente Rail Route would adversely impact Colvin's interest in managing the ranch operation within the

Stone Cabin Allotment to minimize and mitigate friction between the livestock operation and 1997 RMP/ROD objectives for wildlife, recreation, aesthetic values, cultural resources, wild horses, and Wilderness Study Areas. The Colvin ranching operation is currently in balance with these other multiple uses and 1997 RMP/ROD objectives are being achieved within the Allotment. Construction and use of the Caliente Rail Route would result in disruptions to the distribution and travel patterns of people (including personnel accessing the Nellis Air Force Range and Nevada Test Site, federal management agency personnel, Colvin employees, recreationists, miners, and others), Colvin cattle, wild horses, and wildlife, upsetting the balance that has been achieved between various multiple uses. The Colvin operation would need to be adjusted in unknown ways to restore the balance or to mitigate for new multiple use conflicts that would arise due the shift in use patterns caused by the Rail Route.

8. Monitoring Investment: Construction and use of the Caliente Rail Route would adversely impact Colvin's investment in monitoring, particularly with respect to wild horse distribution, utilization patterns by herbivores including cattle and wild horses, and trend in ecological condition. Construction and use of the railway would result in disruptions to the distribution and travel patterns of Colvin cattle, wild horses, and wildlife as a direct result of the Rail Route bisecting Stone Cabin Valley and altering the accessibility of water, forage, and other resources important to grazing animals. Disruptions and alterations to distribution and travel patterns in turn influence localized grazing intensities (utilization levels) and long-term trend in ecological condition. Because each available water source has a service area with a radius of at least four miles and each existing Vegetation Study Site is located within the intersection of at least one such service area, alterations in animal concentrations at water sources throughout the Stone Cabin Allotment due to construction and use of the Caliente Rail Route would result in corresponding alterations in grazing intensities at existing Vegetation Study Sites within the area. Monitoring efforts would need to be intensified at the 15 Vegetation Study Sites in the Stone Cabin Allotment south of US Highway 6 to determine the magnitude of such alterations in grazing intensity and to adjust management accordingly to insure that 1997 RMP/ROD objectives continue to be achieved in the future. Depending upon the degree of change in grazing patterns, areas that are not presently monitored may experience a significant increase in animal pressure as a result of the railway, requiring new Vegetation Study Sites to be established and monitored.

9. Mining: Construction and use of the Caliente Rail Route would adversely impact mining activity within the Stone Cabin Allotment, particularly within the island that would be created in the southeast corner of the Stone Cabin Allotment between the Rail Route, Kawich mountains, and Nellis Air Force Range, severely limiting access by equipment needed for mining in the highly active Golden Arrow area.

B. Mitigation of Impacts to Private Interests

Colvin presents a Favored Mitigation scenario and an Optional Mitigation scenario for the Caliente Rail Route below. Mitigation actions common to the Favored and Optional mitigation scenarios are depicted in blue on the map affixed as Attachment “G” hereto and incorporated by reference. Additional mitigation actions specific to the Favored Mitigation scenario are depicted in green on the map in Attachment “G” and additional mitigation actions specific to the Optional Mitigation scenario are depicted in red on the map in Attachment “G.”

Common Mitigation Actions Under Both Colvin’s Favored and Optional Scenarios: An array of actions must be taken to mitigate impacts to Colvin that will result from construction and operation of the Caliente Rail Route within the Stone Cabin Allotment if either the Favored or Optional mitigation scenario is implemented. Such Common Mitigation Actions are described below.

Common Mitigation Actions:

Fence the Caliente Railway on its northwest side from Warm Springs Pass through Stone Cabin Valley, across Cactus Flat and Ralston Valley to the southwest corner of the Ralston Allotment. See map affixed as Attachment “G” for a conceptual location of this fence. Such fence would prevent grazing animals to the north and west of the Caliente Rail Route from accessing the railway. Colvin desires that its cattle be fenced out of the railway to eliminate the chance that said cattle could be struck by trains transporting nuclear waste, thereby eliminating loss of cattle due to such accidents and, more importantly, eliminating any perceived liability upon Colvin’s part in any potential rail accident that might otherwise be attributed to cattle on the track. Consistent therewith, the DOE shall retain all maintenance responsibility for all railway fences during the entire period that the Caliente Rail Route services the Yucca Mountain Repository and shall indemnify and hold Colvin harmless for any stray cattle that access the railway across such fences. Colvin does not intend to access the portion of the Ralston Allotment that would lie between the Caliente Rail Route and the Nellis Air Force Range under either the Favored Mitigation or Optional Mitigation scenario, so the fence on the north side of the railway proposed under the Common Mitigation Actions would be the only fence necessary to prevent cattle from accessing the Nellis Air Force Range once the railway fencing was completed.

Fence both sides of US Highway 6 where it crosses the Stone Cabin and McKinney Tanks Allotments. See map affixed as Attachment “G” for conceptual locations of these fences. The presence of the Caliente Railway would increase cattle and wild horse concentrations along said highway, significantly increasing the risk of accidents due to motorists striking these animals.

Therefore, Colvin desires that such animals be fenced out of the highway to eliminate the risk of motor accidents due to their presence on the roadway, and, more importantly, to eliminate Colvin's liability that might otherwise be claimed (contrary to Nevada's open range laws) as a result of its cattle on the highway. Consistent therewith, the DOE shall retain all maintenance responsibility for such highway fences during the entire period that the Caliente Rail Route services Yucca Mountain.

Construct two (2) highway underpasses under US Highway 6 to facilitate the movement of cattle across the highway once the highway fences are constructed. See map affixed as Attachment "G" for conceptual locations. Small underpasses are too dark and tunnel-like for desert born and raised cattle to readily pass through, so these underpasses must be large enough to allow such cattle to pass through easily. In general, underpasses sufficient for the movement of desert cattle like Colvin's would be large enough for heavy equipment and semi-trucks to pass through. Therefore, these underpasses should be constructed to allow heavy equipment to pass under the highway.

Fence the low ridge that divides West Stone Cabin Valley from East Stone Cabin Valley starting at US Highway 6 and proceeding northward to a rock outcrop southwest of McIntyre Summit. See map affixed as Attachment "G" for a conceptual location of this fence. Colvin and Stone Cabin Partnership shall share maintenance responsibility for this division fence. The Caliente Rail Route would dramatically alter livestock distribution and travel patterns which would only be partially mitigated by the railway and highway fences described above. To further mitigate such disruptions to existing livestock distribution and travel patterns, grazing use by Colvin and Stone Cabin Partnership must be separated into exclusive use areas. The division fence between the West and East Stone Cabin Valleys would help create such exclusive use areas by providing for exclusive use by Colvin in the East Stone Cabin Valley Unit and exclusive use by Stone Cabin Partnership in the West Stone Cabin Valley Unit. Colvin would also be given exclusive use of the Stone Cabin Valley Unit south of US Highway 6 as part of its exclusive use area. To mitigate for areas within the Stone Cabin Allotment that Stone Cabin Partnership would no longer graze as a result of the Colvin exclusive use areas, Stone Cabin Partnership will receive grazing permits for portions of the currently vacant BLM Ralston Allotment and USFS McKinney Tanks Allotment located north of US Highway 6, providing Stone Cabin Partnership with a total grazing preference at least as large as its current preference.

Construct pipelines from four (4) existing water sources owned and controlled by Colvin for which Colvin holds water right certificates or vested water right claims recognized by the State of Nevada, as follows. Construct a pipeline approximately two miles long from Highway Well northward across US Highway

6 (through the new underpass) to a livestock watering trough. Construct a pipeline approximately two miles long from Twin Mills Well northwesterly to a livestock watering trough. Construct a pipeline approximately two miles long from Cactus Flat #1 Well northward to a livestock watering trough. Construct a pipeline approximately 1.5 miles long from Five Mile Ranch across US Highway 6 through an existing drainage culvert southwesterly to a livestock watering trough. See map affixed as Attachment "G" for conceptual locations for these range improvements. Pipeline materials, labor, and construction costs shall be the DOE's responsibility. Control and ownership of these improvements shall be vested in Colvin through Range Improvement Permits issued subject to FLPMA and Section 4 of the Taylor Grazing Act. Colvin shall bear all maintenance responsibilities for such range improvements upon their completion.

Develop three (3) new wells for which Colvin has applications for the right to appropriate water currently pending before the State of Nevada, as follows. Develop Butte Well in the west-central portion of East Stone Cabin Valley consistent with Colvin's 1995 BLM Range Improvement Permit application. Develop Homestead Well in the north-central portion of Stone Cabin Valley consistent with Colvin's 1995 BLM Range Improvement Permit application. In addition, construct a pipeline approximately two miles long from Homestead Well northward across US Highway 6 (through the new underpass) to a livestock watering trough. Develop Lucky Well in the west-central portion of Stone Cabin Valley consistent with Colvin's 1995 BLM Range Improvement Permit application. In addition, construct a pipeline approximately one mile long from Lucky Well west-southwesterly to a livestock watering trough in the Ralston Allotment. Also, as an alternative to the pipeline from Twin Mills Well, construct a pipeline approximately 3.5 miles long from Lucky Well southeasterly to a livestock watering trough. Such pipeline would be downhill to the trough from Lucky Well, rather than uphill to the trough from Twin Mills Well. See map affixed as Attachment "G" for conceptual locations for these range improvements. Project materials, labor, and construction costs for these range improvements shall be the DOE's responsibility. Control and ownership of these improvements shall be vested in Colvin through Range Improvement Permits issued subject to FLPMA and Section 4 of the Taylor Grazing Act. Colvin shall bear all maintenance responsibilities for such range improvements upon their completion.

Construct a pipeline along the Caliente Rail Route so that Colvin, and others holding existing water rights, can sell excess irrigation and stockwater duties (quantities of water) in their off-seasons to help supply the water needs of the DOE during construction and operation of the Yucca Mountain Repository as well as the water needs of the greater Las Vegas area. See map affixed as Attachment "G" for a conceptual location of this pipeline. Such pipeline should be large enough to accommodate the foreseeable future demands of the Yucca

Mountain Repository and the greater Las Vegas metropolitan area that could reasonably be supplied from the watersheds the Caliente Rail Route crosses while meeting existing water demands within such watersheds.

Colvin's Favored Mitigation: In addition to the above Common Mitigation Actions, specific mitigation actions needed to implement Colvin's Favored Mitigation scenario are described below.

The combination of the Common Mitigation Actions and Favored Mitigation Actions would create a Kawich Unit southeast of the Caliente Rail Route that would be reserved for grazing by wild horses and wildlife by excluding grazing by domestic livestock. Excluding domestic livestock from the Kawich Unit would provide enough forage therein to satisfy the forage demand for the combined AML for wild horses in the Stone Cabin, Saulsbury, and Little Fish Lake HMAs and the Little Fish Lake Wild Horse Territory, while continuing to satisfy existing wildlife demands. Creation of the Kawich Unit would be accomplished by fencing the northwest side of the Caliente Railway through the Stone Cabin Allotment to prevent livestock access while providing public access for other purposes across three surface crossings with cattle-guards. All wild horse use within the Stone Cabin, Saulsbury, and both Little Fish Lake wild horse areas would be moved into the Kawich Unit which would have an AML for 536 wild horses. The combination of the Common Mitigation Actions and Favored Mitigation Actions would also create exclusive livestock use areas for Colvin and for Stone Cabin Partnership which would be free from wild horses or have AMLs of zero (0).

Colvin's exclusive use areas would consist of the East Stone Cabin Valley Unit north of US Highway 6, the Stone Cabin Valley Unit south of US Highway 6 and northwest of the Caliente Railway, the South Ralston Unit south of US Highway 6 and north of the Caliente Railway, and the South McKinney Tanks Unit south of US Highway 6, as well as the Wagon Johnnie and Little Fish Lake Allotments in Little Fish Lake Valley. Together, the creation of such exclusive use areas that would be free of wild horse competition, the indemnity to Colvin for estray cattle within the Kawich Unit, the construction of highway fences and underpasses, the development of new pipelines and wells for stockwater, the construction of a pipeline to service the needs of the Yucca Mountain Repository and the greater Las Vegas metropolitan area, the acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences south of US Highway 6, and reimbursement for additional monitoring expenses (see section C Below) would mitigate all of the impacts of the Caliente Rail Route affecting Colvin and would leave Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference.

The Stone Cabin Partnership's exclusive use areas would consist of the West Stone Cabin Valley Unit north of US Highway 6, the North McKinney Tanks Unit north of US Highway 6, the Hunts Canyon Unit, and the North Ralston Unit north of US Highway 6, as well as its current USFS Allotment(s). The creation of exclusive use areas that would be free of wild horse competition and acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences north of US Highway 6 would leave Stone Cabin Partnership with a functional ranching operation with a total grazing capacity at least as large as its current preference.

Favored Mitigation Actions (in addition to Common Mitigation Actions):

Construct three (3) surface crossings across the Caliente Railway within the Stone Cabin Allotment, as follows. Construct a surface crossing at an unimproved road that crosses the railway a short distance west of Warm Springs Pass. This crossing would provide public access to the Kawich mountains and roads that follow the bench on their northwest slopes. Construct a surface crossing at an unimproved road that crosses the railway to the Golden Arrow area about midway between Flag Well and Twin Mills Well. This crossing would provide public access to the Golden Arrow area, surrounding roads, and the Kawich Wilderness Study Area. Construct a surface crossing at the paved road that crosses the railway in the southwest corner of the Stone Cabin Allotment to provide access to the Nellis Air Force Range. See map affixed as Attachment "G" for conceptual locations for these crossings. Each surface crossing shall include a cattle guard large enough to allow passage of legal-weight semi-trucks and similar heavy equipment (12 feet clearance width, minimum). In the event inadequate DOE fence maintenance allows any Colvin cattle to access the Kawich Unit, gates shall be constructed by DOE at each cattle guard, with a minimum of 20 feet between the gate and the nearest outside cattle guard brace, to allow timely retrieval of such estray cattle. Such gates may be locked at the discretion of Colvin to prevent their use for other purposes, thereby eliminating the risk that they may inadvertently be left open.

Exclude domestic livestock grazing from the Kawich Unit southeast of the Caliente Rail Route and establish an AML for a maximum of 536 wild horses therein. Such AML is equivalent to the combined AMLs of the Stone Cabin (AML= 364), Saulsbury (AML= 40), and Little Fish Lake (AML= 132) wild horse areas. See map affixed as Attachment "G" for a conceptual location of the Kawich Unit. While the Kawich Unit represents approximately 28% of the total acreage within the Stone Cabin Allotment, it produces about 35% of the allotment's total forage, or 6,970 AUMs of the total 19,913 AUM carrying capacity, including suspended AUMs. The combined AML of 536 wild horses would require 6,432 AUMs of forage per year, so the Kawich Unit carrying capacity is sufficient to satisfy the forage demand for all 536 wild horses, if domestic livestock are excluded from the area.

With the exclusion of domestic livestock from the Kawich Unit, stockwater rights located therein would no longer serve their intended function. Therefore, upon implementation of the Common and Favored Mitigation actions herein, Colvin would identify and quitclaim to an affected non-profit wild horse advocacy group, or affected groups as tenants-in-common, the following water rights, as identified in Attachment "E": 7-Beatty Spring; 26-Taylor Well; 34-Haws Canyon Creek; 35-Golden Arrow Well; 36-Kawich Well; and, 38-Divide Well.

Compensate for forage that was previously available to Stone Cabin Allotment permittees, but would be excluded from their use and reserved for use by wild horses and wildlife in the Kawich Unit by setting wild horse AMLs to zero (0) in the following grazing Units created under Colvin's Favored Mitigation scenario: the West Stone Cabin Valley Unit north of US Highway 6; the East Stone Cabin Valley Unit north of US Highway 6; the Stone Cabin Valley Unit south of US Highway 6 and northwest of the Caliente Railway; the eastern portion of the South Ralston Unit south of US Highway 6 and north of the Caliente Railway that lies within the Saulsbury HMA; the Hunts Canyon Unit (the northern part of the Saulsbury HMA); and, the Wagon Johnnie Allotment (includes both the Little Fish Lake HMA and Little Fish Lake Wild Horse Territory). The following grazing Units would remain free of wild horses because they are located outside of delineated HMAs: the portion of the South Ralston Unit south of US Highway 6 and north of the Caliente Railway that lies west of the Saulsbury HMA boundary; the South McKinney Tanks Unit south of US Highway 6; the North McKinney Tanks Unit north of US Highway 6; the North Ralston Unit north of US Highway 6; and, the Little Fish Lake Allotment in Little Fish Lake Valley. See map affixed as Attachment "G" for a conceptual location of these grazing Units.

To further mitigate for areas within the Stone Cabin Allotment that Colvin would no longer graze as a result of the creation of the Kawich Unit and the creation of the Stone Cabin Partnership exclusive use area in the West Stone Cabin Valley Unit, Colvin will receive grazing permits for portions of the currently vacant BLM Ralston Allotment and USFS McKinney Tanks Allotment located south of US Highway 6, providing Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference.

The annual season-of-use associated with Colvin's grazing permit for the Stone Cabin and Ralston allotments combined shall be from March 1 through June 15 and from October 16 through February 28. An additional 20 cattle shall be authorized annually within both the Stone Cabin and Ralston allotments from June 16 through October 15 to account for stragglers and strays. This will provide Colvin with the flexibility needed to eliminate potential land use conflicts between the Stone Cabin/Ralston allotments and the Wagon Johnnie Allotment which has a season-of-use from May 16 through November 15.

In addition to Colvin's Cactus Flat #3 Well, provide at least eight (8) additional water sources within the portions of the currently vacant BLM Ralston Allotment and USFS McKinney Tanks Allotment located south of US Highway 6 by either conveying to Colvin via quitclaim stockwaters that are determined by the Federal Court of Claims (under the case commonly referred to as the Hage case) to be owned and controlled by the United States by operation of takings actions from the previous permittee, or by constructing new wells and water developments to be owned and controlled by Colvin via Range Improvement Permits pursuant to FLPMA and the Taylor Grazing Act, and associated Nevada water permits.

Colvin's Optional Mitigation: In addition to the above Common Mitigation Actions, specific mitigation actions needed to implement Colvin's Optional Mitigation scenario are described below.

The combination of the Common Mitigation Actions and Optional Mitigation Actions would allow Stone Cabin Allotment cattle to continue grazing the area southeast of the Caliente Rail Route. Wild horse AMLs would not change in the Stone Cabin, Saulsbury, and Little Fish Lake wild horse areas.

Access to the area southeast of the Caliente Rail Route by domestic livestock and the general public would be provided by fencing both sides of the Caliente Railway and constructing seven (7) railroad underpasses to prevent livestock from accessing the railway itself while allowing access to its southeast side. The DOE would construct and maintain said fences and hold Colvin harmless for any estray cattle that enter the fenced railway. Cattle-guards and gates would be constructed at the entrance at one side of each railroad underpass to allow for control of cattle movement. The combination of the Common Mitigation Actions and Optional Mitigation Actions would also create exclusive livestock use areas for Colvin and for Stone Cabin Partnership.

Colvin's exclusive use areas would consist of the East Stone Cabin Valley north of US Highway 6, the Stone Cabin Valley south of US Highway 6 to the Nellis Air Force Range boundary, the eastern half of South Ralston south of US Highway 6 and north of the Caliente Railway, and the South McKinney Tanks Allotment south of US Highway 6. Together, the creation of such exclusive use areas, the construction of highway fences and underpasses, the construction of railroad fences and underpasses, the indemnity to Colvin for estray cattle within the fenced railway, the development of new pipelines and wells for stockwater, the construction of a pipeline to service the needs of the Yucca Mountain Repository and the greater Las Vegas metropolitan area, the acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences south of US Highway 6 from the Stone Cabin Allotment boundary to about the center of Ralston Valley, and reimbursement for additional monitoring expenses (see section C Below) would adequately mitigate all of the impacts of the Caliente Rail Route affecting Colvin and

would leave Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference.

The Stone Cabin Partnership's new exclusive use areas would consist of the West Stone Cabin Valley north of US Highway 6, the North McKinney Tanks Allotment north of US Highway 6, and the North Ralston Allotment north of US Highway 6. The creation of such new exclusive use areas and acquisition of the portions of the currently vacant Ralston and McKinney Tanks grazing preferences north of US Highway 6 would leave Stone Cabin Partnership with a functional ranching operation with a total grazing capacity at least as large as its current preference.

Optional Mitigation Actions (in addition to Common Mitigation Actions):

Fence the Caliente Railway on its southeast side from Warm Springs Pass through Stone Cabin Valley and across Cactus Flat to the southwest corner of the Stone Cabin Allotment. See map affixed as Attachment "G" for a conceptual location of this fence. In combination with the railway fence to be constructed under the Common Mitigation Actions, the Caliente Rail Route would thus be totally fenced on both sides through the Stone Cabin Allotment. Colvin desires that its cattle be fenced out of the railway to eliminate the chance that said cattle could be struck by trains transporting nuclear waste, thereby eliminating loss of cattle due to such accidents and, more importantly, eliminating any perceived liability upon Colvin's part in any potential rail accident that might otherwise be attributed to cattle on the track. Consistent therewith, the DOE shall retain all maintenance responsibility for such railway fences during the entire period that the Caliente Rail Route services the Yucca Mountain Repository and shall indemnify and hold Colvin harmless for any stray cattle that access the railway across such fences.

Construct seven (7) railroad underpasses, as follows. Construct an underpass at an unimproved road that crosses the railway a short distance west of Warm Springs Pass. Construct an underpass at an unimproved road that crosses the railway due south of Highway Well. Construct an underpass at an unimproved road that crosses the railway north of Midway Well. Construct an underpass at an unimproved road that crosses the railway to the Golden Arrow area about midway between Flag Well and Twin Mills Well. Construct an underpass at an unimproved road that crosses the railway southeast of Twin Mills Well. Construct an underpass at an unimproved road that crosses the railway east of Cactus Flat #1 Well. Construct an underpass at the paved road that crosses the railway in the southwest corner of the Stone Cabin Allotment to provide access to the Nellis Air Force Range. See map affixed as Attachment "G" for conceptual locations of these improvements. These underpasses would provide access by domestic cattle and the general public to the Kawich mountains and roads that follow the bench on their northwest slopes, to the Golden Arrow area and the

Stone Cabin Valley southeast of the Caliente Rail Route, including surrounding roads, and to the Kawich Wilderness Study Area.

Small railroad underpasses are too dark and tunnel-like for desert raised cattle to readily pass through, so these underpasses must be large enough to allow such cattle to pass through easily. In general, underpasses sufficient for movement of desert cattle like Colvin's would be large enough for heavy equipment and semi-trucks to pass through. Therefore, these underpasses should be constructed to allow heavy equipment to pass under the railway. Cattle-guards and gates would be required at the entrance at one side of each railroad underpass to allow for control of cattle movement. Each cattle guard needs to be large enough to allow passage of legal-weight semi-trucks and similar heavy equipment (12 feet clearance width, minimum). Each gate needs to be large enough to allow grazing animals to pass through readily. Gates may be locked at the discretion of Colvin during its livestock grazing season to prevent their use for purposes other than controlling cattle movement, thereby eliminating the risk that they may inadvertently be left open. When not needed to control Colvin cattle movement, such gates would be locked in the open position to allow free passage by wildlife and wild horses through the railroad underpasses.

Develop three (3) new wells for which Colvin holds water right permits with the State of Nevada, as follows. Develop Kawich Well southwest of Warm Springs Pass consistent with Colvin's 1995 BLM Range Improvement Permit application. Develop Golden Arrow Well in the Golden Arrow area of the Stone Cabin Allotment consistent with Colvin's 1995 BLM Range Improvement Permit application. Develop Divide Well to the southeast of the Golden Arrow area in the Stone Cabin Allotment consistent with Colvin's 1995 BLM Range Improvement Permit application. See map affixed as Attachment "G" for conceptual locations of these range improvements. Project materials, labor, and construction costs shall be the DOE's responsibility. Control and ownership of these improvements shall be vested in Colvin through Range Improvement Permits issued subject to FLPMA and Section 4 of the Taylor Grazing Act. Colvin shall bear all maintenance responsibilities for such range improvements upon their completion.

Develop two (2) additional wells, as follows. Develop Midway Well at least 1 mile southeast of the Caliente Rail Route to the southeast of Flag Well. Develop Valley Well at least 1 mile southeast of the Caliente Rail Route to the southeast of Twin Mills Well. See map affixed as Attachment "G" for conceptual locations of these range improvements. Project materials, labor, and construction costs shall be the DOE's responsibility. Control and ownership of these improvements shall be vested in Colvin through Range Improvement Permits issued subject to FLPMA and Section 4 of the Taylor Grazing Act. Colvin shall bear maintenance responsibilities for all such range improvements upon their completion.

To mitigate for areas within the Stone Cabin Allotment that Colvin would no longer graze as a result of the Caliente Rail Route footprint and the creation of the Stone Cabin Partnership exclusive use area in the West Stone Cabin Valley, Colvin will receive grazing permits for portions of the currently vacant BLM Ralston Allotment and USFS McKinney Tanks Allotment located south of US Highway 6 from the Stone Cabin Allotment boundary to about the center of the Ralston Valley, providing Colvin with a functional ranching operation with a total grazing capacity at least as large as its current preference. The annual season-of-use associated with Colvin's grazing permit for the Stone Cabin and Ralston allotments combined shall be from March 1 through June 15 and from October 16 through February 28. An additional 20 cattle shall be authorized annually within both the Stone Cabin and Ralston allotments from June 16 through October 15 to account for stragglers and strays. This will provide Colvin with the flexibility needed to eliminate potential land use conflicts between the Stone Cabin/Ralston allotments and the Wagon Johnnie Allotment which has a season-of-use from May 16 through November 15.

In addition to Colvin's Cactus Flat #3 Well, provide at least 6 additional water sources within the portions of the currently vacant BLM Ralston Allotment and USFS McKinney Tanks Allotment located south of US Highway 6 from the Stone Cabin Allotment boundary to about the center of the Ralston Valley by either conveying to Colvin via quitclaim stockwaters that are determined by the Federal Court of Claims (under the case commonly referred to as the Hage case) to be owned and controlled by the United States by operation of takings actions from the previous permittee, or by constructing new wells and water developments to be owned and controlled by Colvin via Range Improvement Permits pursuant to FLPMA and the Taylor Grazing Act, and associated Nevada water permits.

C. Monitoring of Impacts to Private Interests

Favored Mitigation Scenario: There are currently 31 permanent Vegetation Study Sites in the Stone Cabin Allotment that Colvin generally monitors at least twice annually. Under Colvin's Favored Mitigation Scenario, the Kawich and West Stone Cabin Valley Units would no longer need to be monitored by Colvin, removing 14 Vegetation Study Sites from its monitoring load. However, at least 4 new Vegetation Study Sites would need to be established in the newly created Stone Cabin Valley Unit to monitor grazing influences within that area because locations that are not presently monitored will experience a significant increase in animal pressure as a result of the railway and additional water developments. Also, 16 existing Vegetation Study Sites within the South Ralston Unit would be added to Colvin's monitoring load. Thus, the total number of Vegetation Study Sites that Colvin would need to monitor in association with the Stone Cabin/Ralston Allotments would increase to 37, a 19% increase over the 31 Vegetation Study Sites Colvin currently monitors in the Stone Cabin Allotment.

A 19% increase in Colvin's \$25,000 annual monitoring investment for the Stone Cabin Allotment equates to an additional \$4,750 annual investment. However, the 4 new Vegetation Study Sites that need to be established in the Stone Cabin Valley Unit and the 16 Vegetation Study Sites in the South Ralston Unit that have not been monitored since the allotment has been vacant will require more intensive monitoring efforts until basic grazing patterns in those areas are established and management is adjusted accordingly. Under the Favored Mitigation Scenario, Colvin anticipates that its actual annual monitoring investment will increase by about \$6,000 for the first 10 years after the Caliente Rail Route construction begins. Therefore, the DOE shall reimburse Colvin for \$6,000 per year for the first 10 years after construction of the Caliente Rail Route begins and shall reimburse Colvin for \$4,750 each year thereafter for as long as the railroad is operated to service the Yucca Mountain Repository. Since such reimbursements are based upon today's costs and expenses, they shall be adjusted annually based upon cost-of-living adjustment percentages determined by the U.S. Social Security Administration.

Optional Mitigation Scenario: There are currently 31 permanent Vegetation Study Sites in the Stone Cabin Allotment that Colvin generally monitors at least twice annually. Under Colvin's Optional Mitigation Scenario, the West Stone Cabin Valley Unit would no longer need to be monitored by Colvin, removing 5 Vegetation Study Sites from its monitoring load. However, at least 6 new Vegetation Study Sites would need to be established in Stone Cabin Valley south of US Highway 6 to monitor grazing influences within that area because locations that are not presently monitored will experience a significant increase in animal pressure as a result of the railway and additional water developments. Also, 11 existing Vegetation Study Sites within the South Ralston Unit would be added to Colvin's monitoring load. Thus, the total number of Vegetation Study Sites that Colvin would need to monitor in association with the Stone Cabin/Ralston Allotments would increase to 43, which is a 39% increase over the 31 Vegetation Study Sites Colvin currently monitors in the Stone Cabin Allotment. A 39% increase in Colvin's \$25,000 annual monitoring investment for the Stone Cabin Allotment equates to an additional \$9,750 annual investment.

However, the 6 new Vegetation Study Sites that need to be established in the Stone Cabin Valley and the 11 Vegetation Study Sites in the South Ralston Unit that have not been monitored since the allotment has been vacant will require more intensive monitoring efforts until basic grazing patterns in those areas are established and management is adjusted accordingly. Under the Optional Mitigation Scenario, Colvin anticipates that its actual annual monitoring investment will increase by about \$12,200 for the first 10 years after the Caliente Rail Route construction begins. Therefore, the DOE shall reimburse Colvin for \$12,200 per year for the first 10 years after construction of the Caliente Rail Route begins and shall reimburse Colvin for \$9,750 each year thereafter for as

long as the railroad is operated to service the Yucca Mountain Repository. Since such reimbursements are based upon today's costs and expenses, they shall be adjusted annually based upon cost-of-living adjustment percentages determined by the U.S. Social Security Administration.

D. Issues Affecting Public Interests

The Caliente Rail Route would impact multiple-use relationships and the current balance between land uses, thereby affecting public interests within the Stone Cabin Allotment, particularly interests associated with attainment of 1997 RMP/ROD objectives and SOPs related to: watersheds; vegetation; visual resource management; wildlife habitat management; livestock grazing management; wild horses; lands, rights-of-way, and utility corridors; recreation; Wilderness Study Areas; locatable minerals; and, fire management.

E. Mitigation of Impacts to Public Interests

Favored Mitigation Scenario: Under the Favored Mitigation scenario, creation of the Kawich Unit with its exclusion of domestic livestock grazing and creation of exclusive use Units for domestic livestock with wild horse AMLs of zero (0) would reduce multiple use conflicts throughout the Stone Cabin Allotment. Thus, impacts to public interests regarding 1997 RMP/ROD objectives and SOPs affected by the Caliente Rail Route would effectively be mitigated.

Optional Mitigation Scenario: Under the Optional Mitigation scenario, multiple use conflicts between domestic livestock, wildlife, wild horses, and other range users would increase in localized areas as a result of disruptions to distribution patterns and travel habits due to the construction and operation of the Caliente Rail Route. While the Optional Mitigation scenario would mitigate impacts to Colvin that would result from construction and operation of the railway, it would not effectively mitigate impacts to public interests regarding 1997 RMP/ROD objectives and SOPs affected by the Caliente Rail Route.

F. Monitoring of Impacts to Public Interests

Extensive monitoring would be required to fully understand and adjust for the various impacts to public interests that may result from the construction and operation of the Caliente Rail Route. Colvin's monitoring is focused upon issues that directly affect its interests, so an evaluation of the impact of the Caliente Rail Route upon monitoring requirements to address unrelated public interests is beyond the scope of these comments.

POLICY OF TITLE INSURANCE ISSUED BY

STEWART TITLE GUARANTY COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, STEWART TITLE GUARANTY COMPANY, a Texas corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land;

and in addition, as to an insured lender only:

5. The invalidity or unenforceability of the lien of the insured mortgage upon the title;
6. The priority of any lien or encumbrance over the lien of the insured mortgage, said mortgage being shown in Schedule B in the order of its priority;
7. The invalidity or unenforceability of any assignment of the insured mortgage, provided the assignment is shown in Schedule B, or the failure of the assignment shown in Schedule B to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title or the lien of the insured mortgage, as insured, but only to the extent provided in the Conditions and Stipulations.

Signed under seal for the Company, but this Policy is to be valid only when it bears an authorized countersignature.

Secretary of Company

**STEWART TITLE
GUARANTY COMPANY**



Stewart Morris Jr.
Chairman of the Board
Countersigned by:
Tom F. Amherst
Authorized Signatory
COW COUNTY TITLE COMPANY
Company
TONOPAH, NV 89049
City, State

Malcolm S. Morris
President

25019281

Page 1 of Policy Serial No. CNJP-1597-596575

SCHEDULE A

Order Number: 25019281

Premium: \$960.00

Date of Policy: September 21, 2000 at 11:21am Policy No.: CNJP-2228-1597-596575

Amount of Insurance: 250,000.00

1. Name of Insured:

COLVIN & SON, LLC, a Nevada Limited Liability Company

2. The estate or interest in the land which is covered by this Policy is:

A FEE

3. Title to the estate or interest in the land is vested in:

COLVIN & SON, LLC, a Nevada Limited Liability Company

4. The land referred to herein is situated in the State of Nevada, County of Nye,
described as follows:

SEE "LEGAL DESCRIPTION" ATTACHED

LEGAL DESCRIPTION

Order No.: 25019281

The land referred to herein is situated in the State of Nevada,
County of Nye, described as follows:

TOWNSHIP 5 NORTH, RANGE 45 EAST, M.D.B.&M.

Section 21: The Southeast Quarter (SE1/4) of the Southwest
Quarter (SW1/4)

TOWNSHIP 4 NORTH, RANGE 46 EAST, M.D.B.&M.

Section 20: The Northeast Quarter (NE1/4) of the Southwest
Quarter (SW1/4)

Section 35: The Northeast Quarter (NE1/4) of the Northeast
Quarter (NE1/4)

TOWNSHIP 4 NORTH, RANGE 47 EAST, M.D.B.&M.

Section 11: The North Half (N1/2) of the Northwest Quarter
(NW1/4)

TOWNSHIP 5 NORTH, RANGE 47 EAST, M.D.B.&M.

Section 13: The Northeast Quarter (NE1/4) of the Northwest
Quarter (NW1/4)

Section 26: The Southwest Quarter (SW1/4) of the Northwest
Quarter (NW1/4)

TOWNSHIP 6 NORTH, RANGE 47 EAST, M.D.B.&M.

Section 25: The South Half (S1/2) of the Southeast Quarter
(SE1/4)

Continued on next page

LEGAL DESCRIPTION - continued
Order No.:25019281

TOWNSHIP 6 NORTH, RANGE 47 EAST, M.D.B.&M.

H.E. Survey No. 120, embracing a portion of Section 32 and 33 in Township 6 North, Range 47 East of the Mount Diablo Meridian, Nevada, more particularly bounded and described as follows:

Beginning at corner No. 1, from which U.S. Location Monument No. 263, bears South sixteen degrees east seven and nine-tenths chains distance; thence North seventy-eight degrees fifty-seven minutes West ten and forty-four hundredths chains to corner No. 2; thence North thirty degrees thirty three minutes West eight and twenty-nine hundredths chains to corner No. 3; thence North fifty-four degrees ten minutes East eleven and twenty-five hundredths chains to corner No. 4; thence North four degrees fifty-five minutes West twenty-eight and twenty-five hundredths chains to corner No 5; thence South eighty-seven degrees eleven minutes East three and eight-tenths chains to Corner No. 6; thence South two degrees seven minutes West seven and sixty two-hundredths chains to corner No. 7; thence South twenty-nine degrees thirty-two minutes East nine and forty-two hundredths chains to corner No. 8; thence South fifty-one minutes West twenty-seven and eighty-eight hundredths chains to corner No. 1, the place of beginning.

TOWNSHIP 7 NORTH, RANGE 47 EAST, M.D.B.&M.

The H.E. Survey No. 144, embracing a portion of, approximately, Sections 33 and 34 in Township 7 North, Range 47 East of the Mount Diablo Meridian, Nevada, more particularly bounded and described as follows:

Beginning at corner No. 1, from which the North corner to Sections 3 and 4 in Township 6 North of Range 47 East of the Mount Diablo Meridian, bears South sixty-three degrees fifty-one minutes West twenty-four and thirty-one hundredths chains distant; thence, North eighty-four degrees fifty-three minutes West fifty-nine and eighty-hundredths chains to corner No. 2; thence, North twenty-seven degrees forty-eight minutes East ten and thirteen-hundredths chains to corner No. 3; thence, South seventy-nine degrees thirty-two minutes East fifty-seven and

Continued on next page

POLICY OF TITLE INSURANCE ISSUED BY

STEWART TITLE GUARANTY COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, STEWART TITLE GUARANTY COMPANY, a Texas corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land;

and in addition, as to an insured lender only:

5. The invalidity or unenforceability of the lien of the insured mortgage upon the title;
6. The priority of any lien or encumbrance over the lien of the insured mortgage, said mortgage being shown in Schedule B in the order of its priority;
7. The invalidity or unenforceability of any assignment of the insured mortgage, provided the assignment is shown in Schedule B, or the failure of the assignment shown in Schedule B to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title or the lien of the insured mortgage, as insured, but only to the extent provided in the Conditions and Stipulations.

Signed under seal for the Company, but this Policy is to be valid only when it bears an authorized countersignature.

Names of Officers

**STEWART TITLE
GUARANTY COMPANY**

Stewart Morris Jr.
Chairman of the Board
Countersigned by
Tom F. [Signature]
Authorized Signatory
COW COUNTY TITLE COMPANY
Company
TONOPAH, NV 89049
City, State



Malcolm S. Morris
President

25019281

Page 1 of Policy Serial No. **CNJP-1597-596575**

SCHEDULE A

Order Number: 25019281

Premium: \$960.00

Date of Policy: September 21, 2000 at 11:21am Policy No.: CNJP-2228-1597-596575

Amount of Insurance: 250,000.00

1. Name of Insured:

COLVIN & SON, LLC, a Nevada Limited Liability Company

2. The estate or interest in the land which is covered by this Policy is:

A FEE

3. Title to the estate or interest in the land is vested in:

COLVIN & SON, LLC, a Nevada Limited Liability Company

4. The land referred to herein is situated in the State of Nevada, County of Nye,
described as follows:

SEE "LEGAL DESCRIPTION" ATTACHED

LEGAL DESCRIPTION

Order No.: 25019281

The land referred to herein is situated in the State of Nevada,
County of Nye, described as follows:

TOWNSHIP 5 NORTH, RANGE 45 EAST, M.D.B.&M.

Section 21: The Southeast Quarter (SE1/4) of the Southwest
Quarter (SW1/4)

TOWNSHIP 4 NORTH, RANGE 46 EAST, M.D.B.&M.

Section 20: The Northeast Quarter (NE1/4) of the Southwest
Quarter (SW1/4)

Section 35: The Northeast Quarter (NE1/4) of the Northeast
Quarter (NE1/4)

TOWNSHIP 4 NORTH, RANGE 47 EAST, M.D.B.&M.

Section 11: The North Half (N1/2) of the Northwest Quarter
(NW1/4)

TOWNSHIP 5 NORTH, RANGE 47 EAST, M.D.B.&M.

Section 13: The Northeast Quarter (NE1/4) of the Northwest
Quarter (NW1/4)

Section 26: The Southwest Quarter (SW1/4) of the Northwest
Quarter (NW1/4)

TOWNSHIP 6 NORTH, RANGE 47 EAST, M.D.B.&M.

Section 25: The South Half (S1/2) of the Southeast Quarter
(SE1/4)

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STEWART TITLE
Guaranty Company

LEGAL DESCRIPTION - continued
Order No.:25019281

TOWNSHIP 6 NORTH, RANGE 47 EAST, M.D.B.&M.

H.E. Survey No. 120, embracing a portion of Section 32 and 33 in Township 6 North, Range 47 East of the Mount Diablo Meridian, Nevada, more particularly bounded and described as follows:

Beginning at corner No. 1, from which U.S. Location Monument No. 263, bears South sixteen degrees east seven and nine-tenths chains distance; thence North seventy-eight degrees fifty-seven minutes West ten and forty-four hundredths chains to corner No. 2; thence North thirty degrees thirty three minutes West eight and twenty-nine hundredths chains to corner No. 3; thence North fifty-four degrees ten minutes East eleven and twenty-five hundredths chains to corner No. 4; thence North four degrees fifty-five minutes West twenty-eight and twenty-five hundredths chains to corner No 5; thence South eighty-seven degrees eleven minutes East three and eight-tenths chains to Corner No. 6; thence South two degrees seven minutes West seven and sixty two-hundredths chains to corner No. 7; thence South twenty-nine degrees thirty-two minutes East nine and forty-two hundredths chains to corner No. 8; thence South fifty-one minutes West twenty-seven and eighty-eight hundredths chains to corner No. 1, the place of beginning.

TOWNSHIP 7 NORTH, RANGE 47 EAST, M.D.B.&M.

The H.E. Survey No. 144, embracing a portion of, approximately, Sections 33 and 34 in Township 7 North, Range 47 East of the Mount Diablo Meridian, Nevada, more particularly bounded and described as follows:

Beginning at corner No. 1, from which the North corner to Sections 3 and 4 in Township 6 North of Range 47 East of the Mount Diablo Meridian, bears South sixty-three degrees fifty-one minutes West twenty-four and thirty-one hundredths chains distant; thence, North eighty-four degrees fifty-three minutes West fifty-nine and eighty-hundredths chains to corner No. 2; thence, North twenty-seven degrees forty-eight minutes East ten and thirteen-hundredths chains to corner No. 3; thence, South seventy-nine degrees thirty-two minutes East fifty-seven and

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LEGAL DESCRIPTION - continued
Order No.:25019281

fifty-two-hundredths chains to corner No. 4; thence South twenty-four degrees thirty-nine minutes West four and twenty-six hundredths chains to corner No. 1 the place of beginning.

TOWNSHIP 3 NORTH, RANGE 48 EAST, M.D.B.&M.

- Section 5: Lot 4 of the Northwest Quarter (NW1/4) and the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4)
Section 6: Lots 1 and 2 of the Northeast Quarter (NE1/4) and the South Half (S1/2) of the Northeast Quarter (NE1/4)

Excepting therefrom that portion conveyed for Highway purposes by Deed recorded November 28, 1938 in Book 47 of Deeds, page 119 as File No. 8784, Nye County, Nevada records.

TOWNSHIP 1 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 2: Lot 4 of the Northwest Quarter (NW1/4)
Section 3: Lots 1, 2, and 3
Section 5: The South Half (S1/2) of the South Half (S1/2)
Section 6: The North Half (N1/2) of the Southeast Quarter (SE1/4)
Section 22: The South Half (S1/2) of the Southeast Quarter (SE1/4) and the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4)
Section 23: The Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4)

TOWNSHIP 2 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 7: The Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) and the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4)
Section 17: The Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4)
Section 33: The Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4)

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Order No.:25019281

Section 34: The South Half (S1/2) of the Southwest Quarter (SW1/4) and the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4)

TOWNSHIP 2 NORTH, RANGE 47 EAST, M.D.B.&M.

Section 14: The Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4)

TOWNSHIP 9 NORTH, RANGE 48 EAST, M.D.B.&M.

The H.E. Survey No. 108, embracing a portion of, approximate, Sections thirteen, twenty-three, and twenty-four in Township Nine North of Range forty eight east of the Mount Diablo Meridian, Nevada, more particularly bounded and described as follows:

Beginning at corner No. 1, from which U.S. Location Monument No. 251, bears South twenty-eight degrees forty-two minutes West eighty-one chains distant; thence, North fifty-one degrees twenty-five minutes West three and sixteen-hundredths chains to corner No. 2; thence, North sixty-three degrees thirty one minutes East nine and ninety-seven-hundredths chains to corner No. 3; thence, North fifty degrees forty-one minutes East thirty three and eighty-three hundredths chains to corner No. 4; thence North seven degrees thirty-nine minutes West seventeen and fifty-four-hundredths chains to corner No. 5; thence, North sixty-eight degrees nine minutes East twenty-one and twenty-one hundredths chains to corner No. 6; thence, South nine degrees four minutes West nine and three-tenths chains to corner No. 7; thence, South twenty-three degrees twelve minutes West twenty-two and seventy-two-hundredths chains to corner No. 8; thence, South fifty-seven degrees fourteen minutes West twenty-four and twelve-hundredths chains to corner No. 9; thence, South forty-four degrees forty-five minutes West nine and sixteen-hundredths chains No. 10; thence, South seventy-four degrees thirty-four minutes West thirteen and thirty-six-hundredths chains to corner No. 1, the place of beginning.

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LEGAL DESCRIPTION - continued
Order No.:25019281

TOWNSHIP 9 NORTH, RANGE 48 EAST, M.D.B.&M.

The H.E. Survey No. 84, embracing a portion of, approximately, Section twenty-six in Township nine North of Range forty-eight East of the Mount Diablo Meridian, Nevada, more particularly bounded and described as follows:

Beginning at corner No. 1, from which U.S. Location Monument No. 251, bears South thirty degrees twenty-four minutes West two and seventy-five hundredths chains distant; thence, North sixty-five degrees five minutes East eight and forty-six hundredths chains to corner No. 2; thence, South five degrees forty-two minutes West thirty-eight and twenty-one hundredths chains to corner No. 3; thence, South five degrees twenty-seven minutes East ten and eighty-six-hundredths chains to corner No. 4; thence, South seventeen degrees fifty-seven minutes East thirty one and fifty-seven-hundredths chains to corner No. 5; thence, South eighty-two degrees thirty-five minutes West three and seventy-seven hundredths chains to corner No. 6; thence, North twenty-one degrees forty-seven minutes West thirty-four and seven-hundredths chains to corner No. 7; thence, North thirty-one degrees fifty-six minutes West six and twenty-eight hundredths chains to corner No. 8; thence North twenty-two degrees forty-six minutes East fourteen and twenty-four-hundredths chains to corner No. 9; thence, North nineteen minutes West twenty-five and four hundredths chains to corner No. 1, the place of beginning.

TOWNSHIP 9 NORTH, RANGE 49 EAST, M.D.B.&M.

Section 9: The East Half (E1/2) of the Southeast Quarter (SE1/4) and the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4)
Section 10: The West Half (W1/2) of the Southwest Quarter (SW1/4) and the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4)
Section 15: The West Half (W1/2) of the Northwest Quarter (NW1/4)

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LEGAL DESCRIPTION - continued
Order No.:25019281

TOWNSHIP 10 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 2: Lots 3 and 4 of the Northwest Quarter (NW1/4) and the North Half (N1/2) of the Southwest Quarter (SW1/4) and the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) and the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4)
- Section 11: The West Half (W1/2) of the West Half (W1/2) and the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) and the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4)
- Section 14: The Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) and the East Half (E1/2) of the Southwest Quarter (SW1/4) and the East Half (E1/2) of the Southeast Quarter (SE1/4) and the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) and the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4)
- Section 22: The East Half (E1/2) of the Northeast Quarter (NE1/4) and the West Half (W1/2) of the Southeast Quarter (SE1/4)
- Section 27: The West Half (W1/2) of the Southwest Quarter (SW1/4) and the West Half (W1/2) of the Northeast Quarter (NE1/4) and the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4) and the East Half (E1/2) of the West Half (W1/2) and the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4)

TOWNSHIP 11 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 3: The South Half (S1/2) of the Northwest Quarter (NW1/4)
- Section 4: The South Half (S1/2) of the Northeast Quarter (NE1/4)
- Section 11: The Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4)
- Section 12: The Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) and the South Half (S1/2) of the Southeast Quarter (SE1/4)

Continued on next page

LEGAL DESCRIPTION - continued
Order No.:25019281

- Section 13: The Northeast Quarter (NE1/4) and the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4) and the East Half (E1/2) of the Southwest Quarter (SW1/4)
- Section 24: The East Half (E1/2) of the Northwest Quarter (NW1/4) and the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4)
- Section 26: The West Half (W1/2) of the Southwest Quarter (SW1/4) and the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) and the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4)
- Section 33: The Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4) and the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4)
- Section 35: The West Half (W1/2) of the West Half (W1/2) and the East Half (E1/2) of the Northwest Quarter (NW1/4)
- Section 36: Tract No. 37, Patent No. 1116192 in unsurveyed Section 36 in Township 11 North, Range 48 East, M.D.B.&M., and in unsurveyed Section 31 in Township 11 North, Range 49 East, M.D.B.&M., as shown on the Official Plat of the survey of said land on file in the General Land Office

TOWNSHIP 12 NORTH, RANGE 49 EAST, M.D.B.&M.

The H.E. Survey No. 119, embracing a portion of, approximately, Sections nineteen and twenty in Township twelve North of Range forty-nine East of the Mount Diablo Meridian, Nevada, more particularly bounded and described as follows:

Beginning at corner No. 1; from which U.S. Location Monument No. 272, bears South sixty-seven degrees nine minutes East one and sixty-six-hundredths chains distant; thence, North sixty-five degrees twenty-nine minutes West thirty-five and ninety-nine-hundredths chains to corner No. 2; thence, North eighty-one degrees fifty-seven minutes West seven and eighty-hundredths chains to corner No. 3; thence, North fifty-eight degrees twenty-nine minutes West forty-five and eighty-hundredths chains to corner No. 4; thence, North nine

Continued on next page

LEGAL DESCRIPTION - continued
Order No.:25019281

degrees ten minutes East nine and twenty-eight-hundredths chains to corner No. 5; thence, South seventy-three degrees thirty-five minutes East fifteen and fifty-two-hundredths chains to corner No. 6; thence, South forty-one degrees nineteen minutes East fourteen and seventy-three-hundredths chains to corner No. 7, thence South sixty-two degrees thirty-seven minutes East twenty-six and sixty-seven hundredths chains to corner No. 8 thence, North forty-seven degrees fifty-two minutes East twenty-seven and fifty-nine-hundredths chains to corner No. 9; thence, South sixty-nine degrees forty minutes East ten and twenty-seven-hundredths chains to corner No. 10; thence, South thirty-seven minutes West thirty-six and thirty-eight-hundredths chains to corner No. 1, the place of beginning.

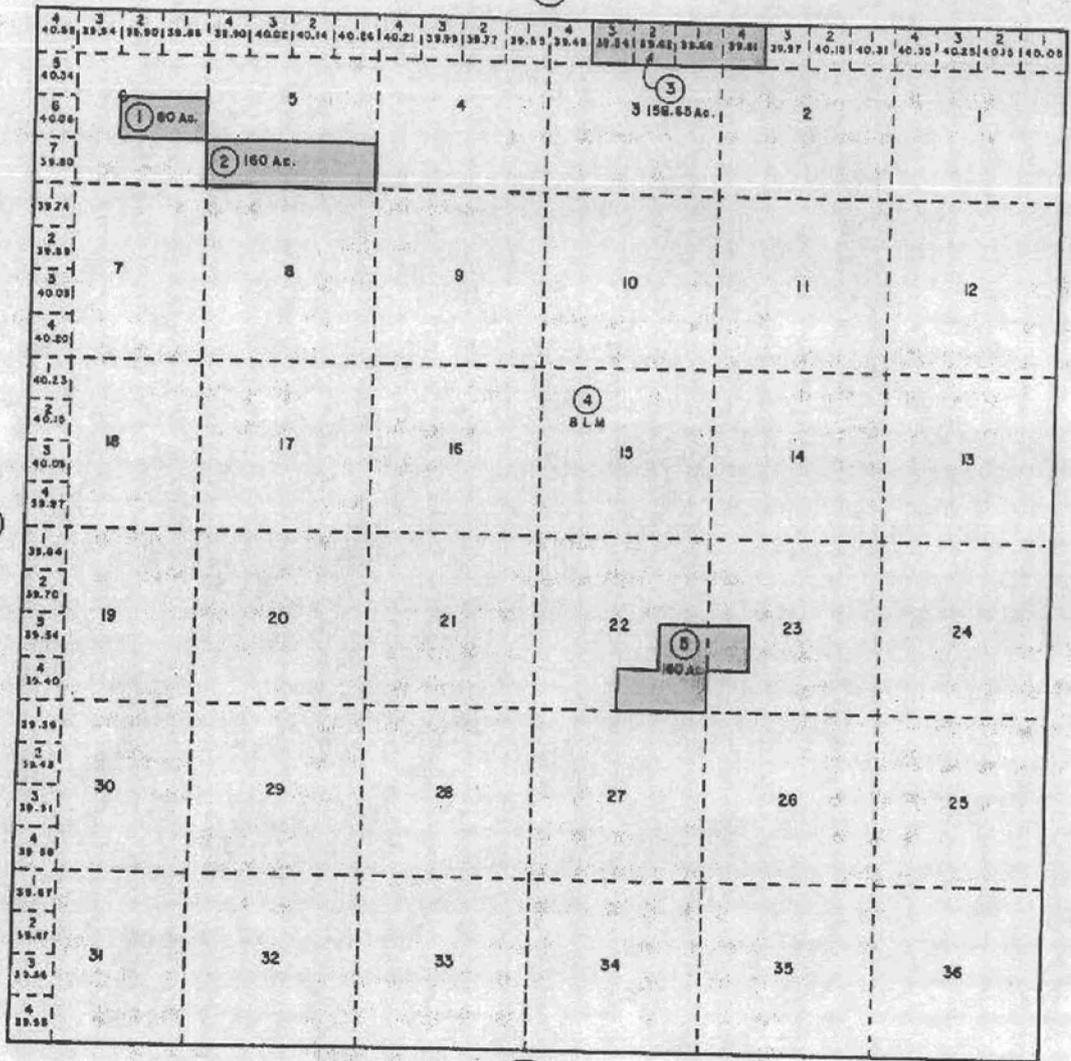
TOWNSHIP 11 NORTH, RANGE 50 EAST, M.D.B.&M.

- Section 6: Lot 1 of the Northeast Quarter (NE1/4) and the Southeast Quarter (SE1/4) of the Northeast Quarter (NE1/4) and the East Half (E1/2) of the Southwest Quarter (SW1/4) and the West Half (W1/2) of the Southeast Quarter (SE1/4)
- Section 7: The West Half (W1/2) of the Northeast Quarter (NE1/4) and the East Half (E1/2) of the Northwest Quarter (NW1/4) and the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) and Lot 4 of the Southwest Quarter (SW1/4)

T 1 N, R 49 E

(41)

07-40



(22)

BK. 09



BK 17

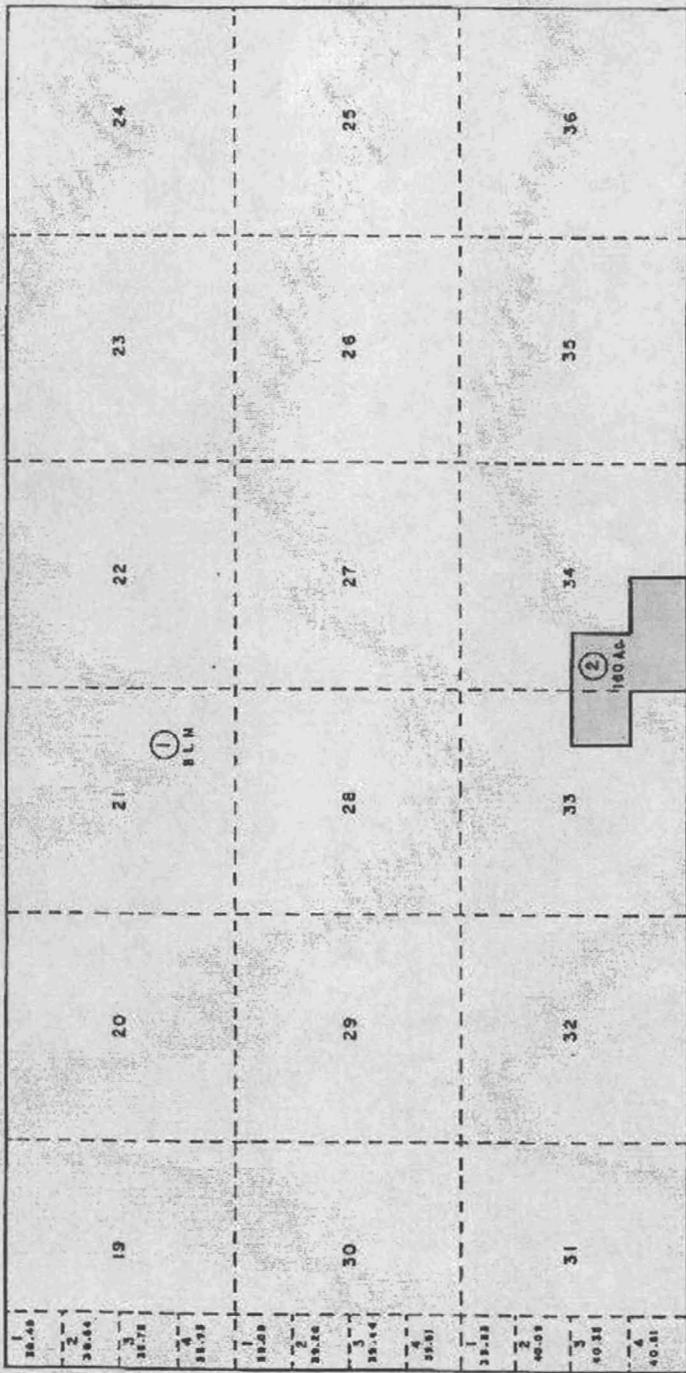
NYE COUNTY

NOTE: This plot is for assessment use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

07-41

S 1/2 - T 2 N, R 49 E

(42)



BK
09



NYE COUNTY

NOTE: This plat is for assessment use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

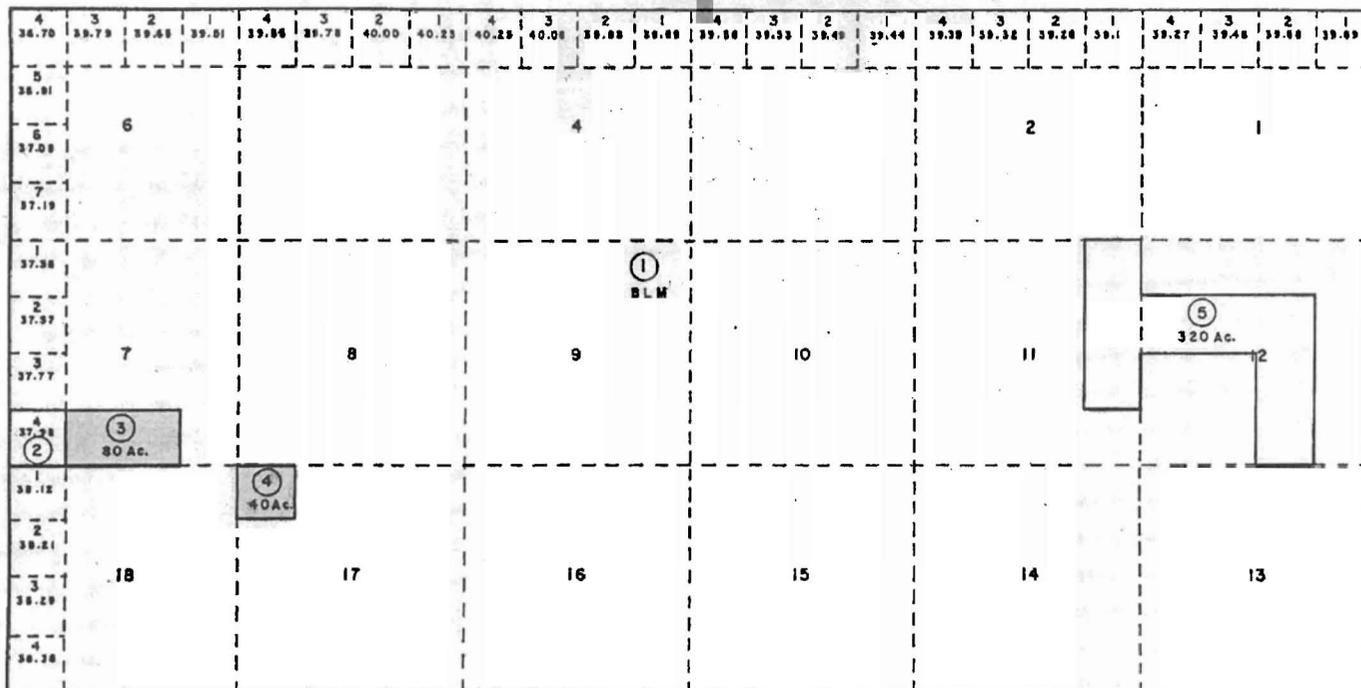
(40)

(23)

07-42

N 1/2 - T 2 N, R 49 E

(43)



BK 09



(41)

NYE COUNTY

NOTE: This plot is for assessment use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineate hereon.

Exhibit A

COLVIN & SON, LLC OFFERED BLM BASE PROPERTY

Grazing Application, Preference Summary

(Form 4130-1a)

The following described Colvin & Son, LLC. owned lands are offered as the base property for the Wagon Johnnie and Stone Cabin Bureau of Land Management grazing preferences. Such offered owned lands were conveyed by Colvin and Son. to Colvin & Son, LLC, as evidenced by the attached Grant Bargain and Sale Deed, dated August 31, 2000.

TOWNSHIP 3 NORTH, RANGE 48 EAST, M.D.B.&M.

- Section 5: Lot 4 of the Northwest Quarter (NW1/4) and the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4)
- Section 6: Lots 1 and 2 of the Northeast Quarter (NE1/4) and the South Half (S1/2) of the Northeast Quarter (NE1/4)

TOWNSHIP 10 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 2: Lots 3 and 4 of the Northwest Quarter (NW1/4) and the North Half (N1/2) of the Southwest Quarter (SW1/4) and the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4) and the Southeast Quarter (SE1/4) of the Northwest Quarter (NW1/4)
- Section 11: The West Half (W1/2) of the West Half (W1/2) and the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4)
- Section 14: The Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) and the East Half (E1/2) of the Southwest Quarter (SW1/4) and the East Half (E1/2) of the Southeast Quarter (SE1/4) and the Southwest Quarter (SW1/4) of the Southwest Quarter (SW1/4)

TOWNSHIP 11 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 26: The West Half (W1/2) of the Southwest Quarter (SW1/4) and the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) and the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4)
- Section 35: The West Half (W1/2) of the West Half (W1/2) and the East Half (E1/2) of the Northwest Quarter (NW1/4)

Attachments: Bargain and Sale Deed, Colvin and Son. to Colvin & Son, LLC, 8/31/00
Articles of Organization of Colvin & Son, LLC, 7/28/00

Attachment C
(2 pages)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

STATE NV
OFFICE 065
OPERATOR NUMBER 276100
REFERENCE CODE 03
DATE PRINTED 02/12/01
TERM 02/12/2001 TO 02/12/2011

GRAZING PERMIT

COLVIN & SON, LLC

BUREAU OF LAND MANAGEMENT
TONOPAH R.A.
P.O. BOX 911
TONOPAH, NV 89049-0911

TOM COLVIN
HCR 58
RITTER, OR 97872

THIS PERMIT IS OFFERED TO YOU BASED ON YOUR RECOGNIZED GRAZING REFERENCE ON THE PUBLIC LANDS AND/OR OTHER LANDS ADMINISTERED BY THE BLM. YOU ARE AUTHORIZED TO MAKE GRAZING USE TO THE EXTENT OF YOUR ACTIVE GRAZING REFERENCE AS SHOWN BELOW UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS INCORPORATED HEREIN AND YOUR PAYMENT OF GRAZING FEES.

ALLOT	LIVESTOCK NUMBER	KIND	GRAZING BEG	PERIOD END	%PL	TYPE USE	AUM'S
0079 WAGON JOHNNIE	201	CATTLE	05/16	11/15	100	ACTIVE	1216
0082 STONE CABIN	2067	CATTLE	03/01	05/15	100	ACTIVE	5165
	20	CATTLE	05/16	11/15	100	ACTIVE	121
	1500	CATTLE	10/16	02/28	100	ACTIVE	6707

TERMS AND CONDITIONS:

GRAZING WITHIN THE WAGON JOHNNIE ALLOTMENT WILL BE IN ACCORDANCE WITH THE STEWARDSHIP AMP AND CONSENT DECISION DATED MAY 11, 1992. GRAZING IN THE STONE CABIN ALLOTMENT WILL BE IN ACCORDANCE WITH THE CONSENT DECISION DATED MAY 11, 1992.

FAILURE TO MAINTAIN ASSIGNED RANGE IMPROVEMENTS IS A PROHIBITED ACT UNDER 43 CFR 4140.1(A)(4),(5) WHICH COULD RESULT IN "... WITHHOLDING ISSUANCE OF A GRAZING PERMIT OR LEASE, OR SUSPEND THE GRAZING USE AUTHORIZED UNDER THE GRAZING PERMIT OR LEASE, IN WHOLE OR PART, OR CANCEL A GRAZING PERMIT OR LEASE... AS STATED IN 43 CFR 4170.1-1(A).

PERSUANT 43 CODE OF FEDERAL REGULATIONS(CFR)10.4(G) THE HOLDER OF THIS AUTHORIZATION MUST NOTIFY THE AUTHORIZED OFFICER, BY TELEPHONE, WITH WRITTEN CONFIRMATION, IMMEDIATELY UPON THE DISCOVERY OF NATIVE AMERICAN HUMAN REMAINS, FUNERARY OBJECTS, SACRED OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY (AS DEFINED AT 43 CODE OF FEDERAL REGULATIONS 10.2). FURTHER PERSUANT TO 43 CFR 10.4(C) AND (D), THE HOLDER MUST

STOP ACTIVITIES IN THE VICINITY OF THE DISCOVERY AND PROTECT IT FOR 30 DAYS OF UNTIL NOTIFIED TO PROCEED BY THE AUTHORIZED OFFICER. THE HOLDER IS RESPONSIBLE FOR THE COST OF CONSULTATION, EVALUATION AND MITIGATION. ANY DECISION ON TREATMENT AND/OR MITIGATION WILL BE MADE BY THE AUTHORIZED OFFICER AFTER CONSULTING WITH THE HOLDER. FAILURE TO PAY A GRAZING BILL WITHIN 15 DAYS OF THE DUE DATE WILL RESULT IN A LATE FEE OF 10% OF THE BILL AMOUNT (NOT LESS THAN \$25.00 OR NO MORE THAN \$250.00) 43 CFR 4130.8-1 (F)

SALT BLOCKS WILL BE PLACED MORE THAN ONE MILE FROM WATER DEVELOPMENTS. 43 CFR 4130.3-2(C)

CHANGES REQUESTING THE REISSUE OF A GRAZING BILL AFTER THE BILL HAS BEEN SENT TO THE PERMITEE WILL BE SUBJECT TO A SERVICE CHARGE OF \$10.00 PER BILL (43 CFR 4130.8-3).

FAILURE TO PAY A GRAZING BILL WITHIN 15 DAYS OF THE DUE DATE WILL RESULT IN A LATE FEE OF 10% OF THE BILL AMOUNT (NOT LESS THAN \$25.00 OR MORE THAN \$250.00) 43 CFR 4130.8-1(F)

43 CFR 4120.3-1(A) STATES "RANGE IMPROVEMENTS SHALL BE INSTALLED, USED, MAINTAINED, AND/OR MODIFIED ON PUBLIC LANDS, OR REMOVED FROM THESE LANDS, IN A MANNER CONSISTENT WITH MULTIPLE USE MANAGEMENT." BIRD LADDERS ARE REQUIRED ON ALL WATER DEVELOPMENTS. THE TERMS AND CONDITIONS OF THIS PERMIT MUST BE CONSISTENT WITH THE STANDARDS AND GUIDELINES APPROVED FEBRUARY 12, 1997 FOR THE MOJAVE - SOUTHERN GREAT BASIN RESOURCE ADVISORY COUNCIL. ACTUAL USE REPORTS WILL BE TURNED IN WITHIN 15 DAYS AFTER THE END OF GRAZING SCHEDULE (43 CFR 4130.3-2(D)).

LOTMENT SUMMARY (AUM'S)

LOT	P R E F E R E N C E		
	ACTIVE	SUSP	TOTAL
0079 WAGON JOHNNIE	1219		1219
0082 STONE CABIN	11973	417	12390

THIS PERMIT ; 1. CONVEYS NO RIGHT, TITLE OR INTEREST IN THE UNITED STATES ANY LANDS OR RESOURCES AND 2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS REQUIRED BY LAND PLANS AND APPLICABLE LAW; (B) ANNUAL REVIEW OR TO MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREAFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED: SIGNATURE OF PERMITEE: Tom Colwin DATE Feb 13, 2001

EA MANAGER: W. Craig Mackinnon DATE Feb 13, 2001

Exhibit A

**Colvin & Son - BLM Range Improvements
Stone Cabin Allotment (00082)**

Sorted by: Project Type then Project Number

RANGE IMPROVEMENT PROJECT				PROJECT NAME
PROJECT NUMBER(s)	TYPE	PROJECT DATE		
0020 ?	x			Flag Well [T3N R48E 32 NE NW]
0048 ?	x			McIntyre Reservoir
0829 ?	x			Colvin Corrals
0630	x	9/20/66		Highway Well [T4N R49E 32 SW NE]
4189	x	2/24/55		Cactus Flat Well #1 (Also known as Reed's Ranch Well #1) [T1N R47E 30 NE NE]
4295	x	2/24/55		Twin Mills Well and Corral [T1N R47E 2 NW NW]
4415	x			Two Mile Canyon Corral
?		x	10/12/70	Willow Creek Division Fence (Colvin and Clifford)
?		x		Yellow Cone Fence Extension (Colvin)
0141, 0169		x	10/3/69	Italian Spring and Pipeline Extensions (0141 is less than 1 mile long, 0169 is 2 miles long) [T6N R49E 4 SE SE through Sections 5&6]
0428		x	10/3/69	Yellow Cone Fence (Colvin and Hage)
0496		x	10/3/69	Taylor Well [T1N R48E 32 SE NW]
0564		x	2/10/67	Two Mile Pipeline (Colvin and Clifford)
3523		x	11/10/69	Haws Canyon Pipeline
4135, 0454		x	11/10/69	Haws Canyon Pipeline and Extension
4177		x		Yellow Cone Cattleguard
4178		x	2/9/67	Stone Cabin Ditch (Colvin and Clifford)
4208		x	11/26/73	Willow Creek Fence (Colvin and Clifford)
4424		x	4/30/75	Italian Springs Horse Trap (all SC users)
4425		x	4/30/75	Haws Canyon Horse Trap (all SC users)

* RIP = Range Improvement Permits (Section 4 Permits).

** CA = Cooperative Agreements.

COLVIN & SON LLC ABSTRACT OF ACTIVE RIGHTS

Colvin & Son only

01/27/2005

RCD SERIAL	CHANGE STATUS	OWN OR REC	PRIORITY	SOURCE	AMT	CPS	DUTY	USE	UNITS	POINT OF DIVERSION	PLACE OF USE	ACTION DUE	REMARKS
1	02361	CLAIM	COLVIN & SON, LLC	<1902	FIVE-MILE SPRING	0.01		S	300C	0348 06	WONE		FILED 8/26/19; 2 RESERVOIRS; MAP
2	02362	CLAIM	COLVIN & SON, LLC	<1902	STONE CABIN CR. CHA	0.04	2.19 MGA	S	1000C, 100H	0448 34	NESE		EARTHEN RESERVOIR; SEE ALSO 47795, 47796; 382(D) 46, NYE CO.
3	02363	CLAIM	COLVIN & SON, LLC	<1915	CACTUS FLAT#1 WELL	0.04		S	1000C, 100H	0147 30	NESE		WELL, WINDMILL, AUX. GAS PUMP; REED RCH; 382(D) 46, NYE CO.
4	02365	CLAIM	COLVIN & SON, LLC	<1916	TWIN HILLS WELL	0.04	8.03 MGA	S	1000C, 100H	0147 02	LB (NENK)		WELL, WINDMILL; 382(D) 46, NYE CO.
5	02366	CLAIM	COLVIN & SON, LLC	<1915	CACTUS FLAT#3 WELL	0.04	8.03 MGA	S	1000C, 100H	0146 09	WONE		PUMP JACK, TANK, TROUGHS; 382(D) 46; PALSTON ALLOT, AMEND DEC, 2004
6	02377	CLAIM	COLVIN & SON, LLC	<1880	BREEN SPRING	0.05		S	1000C, 500H	0149 23	SMN		EARTH BASIN; MAP
7	02378	CLAIM	COLVIN & SON, LLC		BEATTY SPRING	0.02		S		0149 28	SEW		MAP
8	02379	CLAIM	COLVIN & SON, LLC	<1880	HANS CREEK SPRING	0.025	5.84 MGA	S	800	0149 03	NNM		FILED 1/25/1951; BASIN; MAP
9	02859	CLAIM	COLVIN & SON, LLC	<1900	L. FISH LAKE VALLEY	29.527	4724.24AP	I, S, D	1181.06 AC	1250 31	SESE	POR 4 TFS	NUMEROUS PODS; MAP, 5 SHEETS; +1982 AFFIDAVIT OF BOB WILLIAMS
10	03866	CLAIM	COLVIN & SON, LLC	<1902	STONE CABIN CREEK	0.01	1.28 MGA	S	300 C	0448 34	NESE		DUG RESERVOIR, 60 FT. DIA, 8 FT. DEEP; SEE ALSO 47795, 47796
11	04625	CLAIM	COLVIN & SON, LLC	<1905	LONGSTREET SPRING	0.065	45 AF	I, S, D	10 AC	0747 33, 34		POR 33, 34	FILED 12/03/1987; MEADOW PASTURE; ALSO STOCK (SEE 62349)
12	2560	C #023	COLVIN & SON, LLC	19121121	WHITESIDE LAKE	2.0	154.29 AP	I, D	51.43 AC	1049 22	SESE	POR SK 27	MAP
13	4310	C 7183	COLVIN & SON, LLC	19170217	HANS CANYON SPR. #1	0.025		S	810 C	0249 17	NNM		MAP; WITH PIPE LINES?
14	4311	C 7184	COLVIN & SON, LLC	19170217	HANS CANYON SPRING	0.025		S	810 C	0249 07	SEW		MAP
15	4313	C 7182	COLVIN & SON, LLC	19170217	COYOTE HOLE SPRING	0.00625	1.46 MGA	S	200 C	0247 14	SENE		DITCH TO TROUGH
16	4315	C 7185	COLVIN & SON, LLC	19170217	FOUR-MILE SPRING	0.025		S	810 C	0447 11	NNM		MAP; MAY BE PIPE LINE
17	4316	C 7186	COLVIN & SON, LLC	19170217	SIDE HILL SPRING	0.025		S	810 C	0547 26	SEW		MAP; MAY INCLUDE POND
18	4317	C 7187	COLVIN & SON, LLC	19170217	POINT OF ROCKS SPR	0.025		S	810 C	0547 13	NNM		MAP
19	4318	C 7189	COLVIN & SON, LLC	19170217	WARM SPRINGS	0.025		S	810 C	0647 25	SESE		MAP
20	4351	C 1921	COLVIN & SON, LLC	19170310	IRON SPRING	0.008		S	250	0849 10	SESE		FROM DWR DATABASE; + RESERVOIR
21	4536	C 1067	COLVIN & SON, LLC	19170801	HANS CREEK, SPRINGS	0.5519	264.91 AP	I, D	55.19 AC	0249 35	SEW	POR 34, 35, 2, 3	MAP
22	4689	C 794	COLVIN & SON, LLC	19171109	ITALIAN SPRING	0.012	2.83 MGA	S	180C, 1000S	0649 04	SESE		FROM DWR DATABASE; + 3 MILES PIPE LINES
23	13544	PERMIT	COLVIN & SON, LLC	19501116	RIM ROCK WELL	0.032	4.51 MG	S	1000C, 50H	0849 17	SEW	SEW 17	20050104 C, B NEGOT. W/USPS, IN BOX CANYON, 1/4 MI. N. HOT CREEK; SEE 67825
24	13549	C 4228	COLVIN & SON, LLC	19501116	FLAG WELL	0.031	7.3 MGA	S	1000C	0348 32	NNM	NNM 32	FROM DWR DATABASE; 150' WELL, 6" CASING, WINDMILL, STOR. TANK, TROUGH
25	42646	C11644	COLVIN & SON, LLC	19801015	ANDERSON SPRING	0.05	11.79 MGA	S	1600 C	1149 11	NESE	POR 11, 12, 13	WILLIAMS RANCH; 11,500 FT. 2" PLASTIC PIPE, 3 TROUGHS, POND; MAP
26	45271	C12305	COLVIN & SON, LLC	19820201	TAYLOR WELL	0.007	1.65 MGA	S	400 C	0148 32	SEW	SEW 32	10,000 GAL. STOR. TANK, 300 GAL. TROUGH; SEE ALSO 44772
27	45862	C13451	COLVIN & SON, LLC	19820621	HIGHWAY WELL	0.0312	7.3 MGA	S	1000 C	0449 32	SENE	SENE 32	UNKNOWN DEPTH; 5 HP PUMP JACK, STOR. TANK, TROUGH; SEE 13548
28	46740	APPLPRO	COLVIN & SON, LLC	19830318	HOT CREEK	0.05		S	1617 C	0849 21	NESE	POR 20, 21, 22	19830910RFA PROTEST BY RUSSELL; *WATER BEING ADJUD'D, #14428 IS SENIOR*
29	46741	APPLPRO	COLVIN & SON, LLC	19830318	PAGE SPRING	0.05		S	1617 C	0849 28	NNM	NNM 28	19830910RFA PROT. BY RUSSELL; *WATER BEING ADJUD'D, #14428 IS SENIOR
30	46742	APPLPRO	COLVIN & SON, LLC	19830318	UPPER WARM SPRING	0.05		S	1617 C	0849 21	SEW	SEW 21	19830910RFA PROT. BY RUSSELL; *WATER BEING ADJUD'D, * * SEE ALSO 03189
31	46743	APPLPRO	COLVIN & SON, LLC	19830318	PAT SPRING	0.05		S	1617 C	0849 21	NESE	NESE 21	19830910RFA PROT. BY RUSSELL; *WATER BEING ADJUD'D, * * SEE ALSO 03189
32	47795	PERMIT	COLVIN & SON, LLC	19840314	STONE CABIN CR	0.05		S	1617 C	0448 34	NESE	NESE 34	ALSO 02362, 03866; PROTEST OVERRULED, FEB, 2003; PC, FBU DEC. 04
33	47796	PERMIT	COLVIN & SON, LLC	19840314	STONE CABIN CR	0.05		S	1617 C	0448 34	SENE	SENE, NESE 34	ALSO 02362, 03866; PROTEST OVERRULED, FEB, 2003; PC, FBU DEC. 04
34	48204	C12317	COLVIN & SON, LLC	19840713	HANS CANYON CREEK	0.05	11.8 MGA	S	1617 C	0248 11	SESE	SESE 11	FROM DWR DATABASE
35	58111	PERMIT	COLVIN & SON, LLC	19920923	GOLDEN ARROW WELL	0.05	11.8 MGA	S	1620 C	0248 33	SEW	POR 32, 33, 5	20050126 C, B NEGOTIATING WITH BLM; EOT FILED 4/11/01; NEARBY: 38312, 433879M
36	58112	PERMIT	COLVIN & SON, LLC	19920923	KAWICH WELL	0.05	11.8 MGA	S	1620 C	0349 01	SENE	POR 3/49, 4/49	20050126 C, B NEGOTIATING WITH BLM; EOT FILED 4/11/01
37	58113	APPLPRO	COLVIN & SON, LLC	19920923	BUTTE WELL	0.05		S	1620 C	0548 14	NNM	NNM 14	19921157RFA PROTESTED BY CLIFFORD; COMMON USE, WOULD ATTRACT WILD HORSES
38	58114	PERMIT	COLVIN & SON, LLC	19920923	DIVIDE WELL	0.05	11.8 MGA	S	1620 C	0148 11	NNM	NNM 11	20050126 C, B NEGOTIATING WITH BLM; EOT FILED 4/11/01
39	58598	APPL	COLVIN & SON, LLC	19930309	LUCKY WELL	0.05		S	1620 C	0247 07	SENE	7, 8, 17-20	19930604RFA BLM REQUESTING W/ INTEREST; COMMON USE WITH STONE CABIN

** I=IRRIG; M=MINING/MILLING; S=STOCK; IND=INDUSTRIAL; D=DOMESTIC

COLVIN & SON LLC ABSTRACT OF ACTIVE RIGHTS

Colvin & Son only												
RCD SERIAL	CHANGE	STATUS	OWN OF REC	PRIORITY	SOURCE	AMT CFS DUTY	USE	UNITS	POINT OF DIVERSION	PLACE OF USE	ACTION DUE	REMARKS
40	58909	APPL	COLVIN & SON, LLC	19930608	HOMESTEAD WELL	0.05	S	1620 C	0348 03 L2	POR 2,3,4	19930918RFA	BLM REQUESTING W INTEREST; COMMON USE WITH STONE CABIN
41	62348	48805	C15877 COLVIN & SON, LLC	19850130	LONGSTREET SPRING	0.018	S	1617 C	0747 32 NWSE	POR 32,33 (HES144)		300 FT. 1W" PIPE, 6" DIA. TROUGH, 400 GAL./CPD, CPU 48805; SEH 04625
42	67823	PERMIT	COLVIN & SON LLC	20010717	SEVEN MILE WELL	0.0344	S	1,100C	1250 05 NWSE	POR 05		PC, PBU FILED 7/19/04; #09344 (CARDNER) SAME SOURCE
43	67824	PERMIT	COLVIN & SON LLC	20010717	7 MILE WASH WELL	0.0344	S	1617 C	1250 18 SESE	POR SW 18	20050802 C	SENT REQUEST TO CORRECT TYPE ERROR: (#5: SEC. 18, NOT 08)
44	67825	13544	APPLPRO COLVIN & SON LLC	19501116	BOX CANYON WELL	0.032	S	1000C, 50H	0849 18 SESE	SENE 18	200110157RFA	PROT. BY USFS (*NO AUTHORIZATION*) ADD'L INFO SUPPLIED 2/21/03
45	71659	APPLN	COLVIN & SON, LLC	20040907	NORTH VALLEY WELL	3.0	I	360 AC	1150 06 NESW	POR 6,7		POR ALSO IRRIGATED BY #02859
46	71660	APPLN	COLVIN & SON, LLC	20040907	MIDDLE VALLEY WELL	4.0	I	460 AC	1150 07 SWSW	POR 7,12,13		POR ALSO IRRIGATED BY #02859
47	71661	APPLN	COLVIN & SON, LLC	20040907	FISH LAKE RANCH WL	7.4	I	880 AC	1149 26 SESW	POR 26,35,2,11,14		POR ALSO IRRIGATED BY #02859
48	71662	APPLN	COLVIN & SON, LLC	20040907	UPPER FISH LAKE WL	3.7	I	440 AC	1049 22 SWSE	PCR 22,27		POR ALSO IRRIGATED BY #02859, 2560
49	71663	APPLN	COLVIN & SON, LLC	20040907	LOWER FISH LAKE WL	2.7	I	320 AC	0949 10 SNNW	POR 9,10,15		POR ALSO IRRIGATED BY #02859

Count= 49



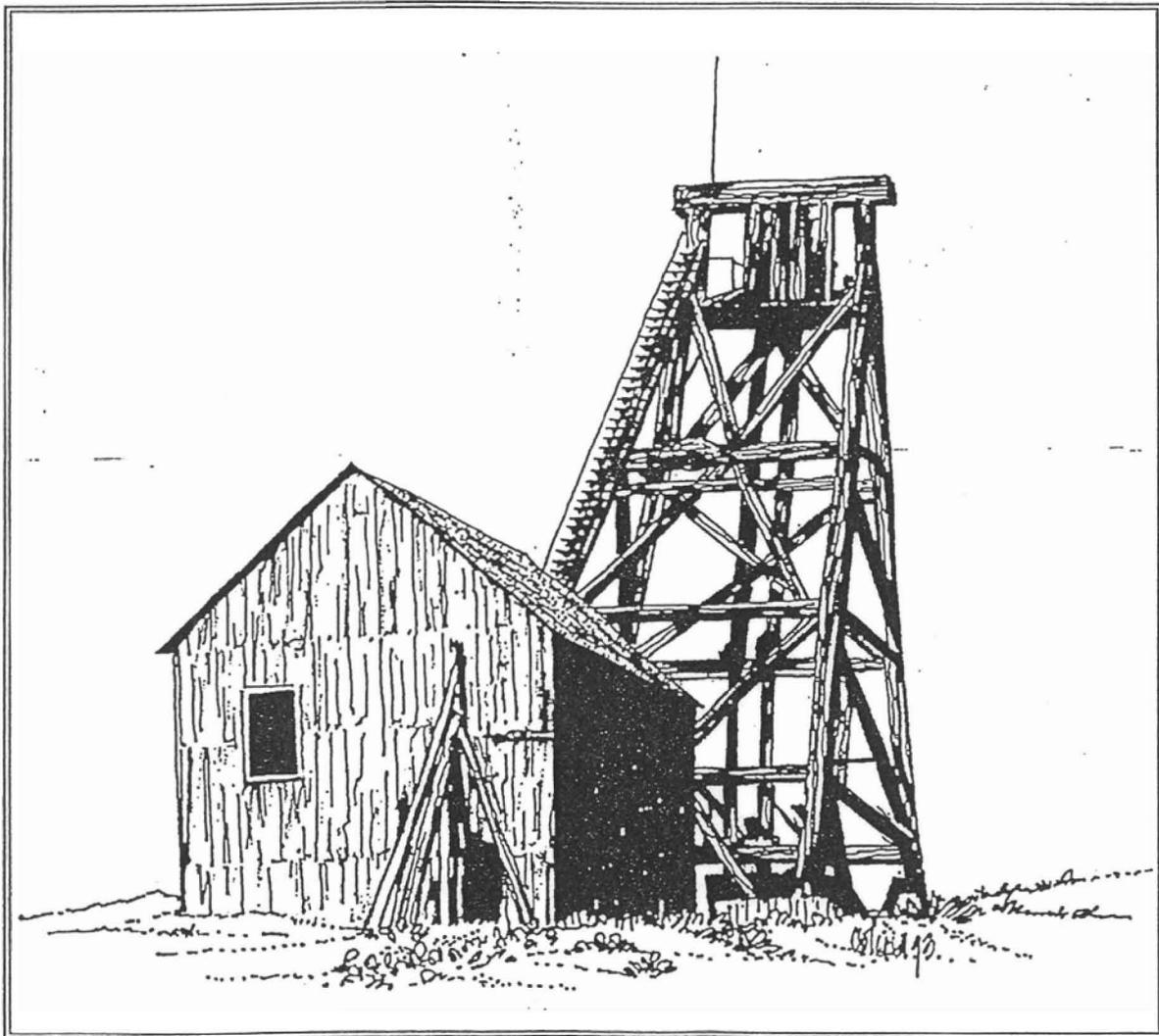
United States Department of the Interior
Bureau of Land Management

Battle Mountain District
Tonopah Field Station, Tonopah, Nevada

October 1997



APPROVED
Tonopah Resource Management Plan and
Record of Decision



TONOPAHA RESOURCE MANAGEMENT PLAN
and
RECORD OF DECISION

Prepared by:
Department of the Interior
Bureau of Land Management
Battle Mountain District



Ann J. Morgan
State Director, Nevada

October 6, 1997

The Tonopah Resource Management Plan and Record of Decision outlines decisions for the management of 6.1 million acres of public lands within the Tonopah Planning Area, in Nye and Esmeralda Counties, south-central Nevada. These lands are administered by the Tonopah Field Station of the Bureau of Land Management's Battle Mountain District.

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TONOPAH RESOURCE MANAGEMENT PLAN and RECORD OF DECISION

INTRODUCTION

The Tonopah Resource Management Plan (RMP) provides a comprehensive framework for managing approximately 6.1 million acres of public lands administered by the Tonopah Field Station of the Bureau of Land Management's (BLM) Battle Mountain District. This RMP replaces the Tonopah Management Framework Plan (1981) and the Esmeralda-Southern Nye, Area A, Resource Management Plan (1986); pertinent decisions from those two documents are brought forward into this RMP. This new plan will guide the management of the public land resources for the next 15-20 years for portions of Nye and Esmeralda Counties of south-central Nevada (see Maps 1 and 2). Significant resources and program emphases in the plan include: wildlife habitat, special status species, riparian areas, forestry and vegetative products, livestock grazing, wild horses and burros, lands and rights-of way, cultural resources, recreation, utility corridors, and locatable and leasable minerals.

The development of this land-use plan began early in 1990 when the public was invited to become involved through participating in several scoping meetings. Over the next two years, a Draft Plan and Environmental Impact Statement was developed. It was published and sent to the public for review in mid-1993. Following BLM review of almost 100 comment letters on the Draft Plan, the Proposed Plan and Final Environmental Impact Statement was developed and sent to the public for review in late 1994. Twenty letters of protest to the Proposed Plan were subsequently filed with the BLM Director. The resolution of these protests involved several meetings with both Nye and Esmeralda County Commissioners over a period of several months in 1996. The final resolution of these protests was completed early in 1997. Copies of the protest letters, and of BLM response letters addressing specific points of protest, are available for public review at the BLM Tonopah Field Station. As a result of these protests, it was necessary to withhold the decisions to designate several Areas of Critical Environmental Concern (ACECs) from this Record of Decision (ROD) (see 43 Code of Federal Regulations 1610.5-1(b)): This topic will be readdressed because several points of protest concerning ACECs were found to be valid. Therefore, an ACEC Plan Amendment to the RMP will be prepared over the next two years. The development of this amendment will include extensive involvement by the public.

This Resource Management Plan has been updated to reflect changes since the Proposed RMP was released in October 1994. Corrections and additions have been made where necessary in the following text. Also included is a glossary that provides definitions of the technical terms and acronyms used.

ALTERNATIVES INCLUDING THE PROPOSED ACTION

Five management scenarios--the Proposed Action and four alternatives--were analyzed in the Proposed Tonopah RMP/Final EIS, released for public review in October 1994. All five management scenarios are legally feasible and technically possible. The Proposed Action and its alternatives were developed in response to planning issues identified through public scoping at the beginning of the planning process and are designed to conform to BLM's program guidance and current policy.

ALTERNATIVE 1:

This is the No-Action Alternative. Under this alternative, land-use management would continue as at present and would be guided by the Tonopah Management Framework Plan (in effect since 1981) and the Esmeralda-Southern Nye Resource Management Plan (in effect since 1986). Management direction for resources and uses not addressed in those plans would be derived by extrapolating from past management actions.

ALTERNATIVE 2:

This alternative would provide maximum opportunity for private economic development and economic diversity, and maximum utilization of a wide range of resources. Lands would be made available for expansion and development, while still protecting sensitive resource values.

ALTERNATIVE 3:

This alternative would provide for private economic development and economic diversity, but with a greater emphasis on environmental safeguards designed for the preservation and enhancement of environmental systems, and for species diversity. Alternative 3 is the "environmentally preferred" alternative.

ALTERNATIVE 4:

This alternative is designed to strike a balance between the need for environmental safeguards and the need to provide opportunity for resource utilization, private economic development, and economic diversity. It would provide wide opportunity for the development of renewable and nonrenewable resources while still ensuring the preservation and enhancement of fragile and unique resources.

PROPOSED ACTION:

The proposed action as outlined in the 1994 Proposed Tonopah RMP and detailed below is similar in all major respects to Alternative 4. It provides slightly greater protection for riparian habitat, joshua tree forests, and cultural resources, but also provides greater opportunity for livestock grazing, land disposal, and recreation use.

MANAGEMENT CONSIDERATIONS

Design of the Proposed Plan was guided by the need to provide for a wide range of land uses on the one hand, and the need for environmental safeguards to protect fragile and unique resources and ensure sustained yield on the other. The "environmentally preferred" alternative (Alternative No. 3 above) thus was *not* selected because it would have unduly limited opportunity for private economic development, economic diversity, and resource usage in the Tonopah Planning Area. Provision is made in the Proposed Plan for the disposal of nearly 300,000 acres of public land, for a wide variety of recreation opportunities, for the continued utilization of public grazing lands, and for the harvest of forestry and vegetation products. Environmental safeguards are designed to provide effective protection of cultural resources, riparian areas, special status species, and fish and wildlife habitat, while at the same time allowing broad opportunity for diverse land uses and resource development.

DECISIONS

The following decisions, listed as RMP Determinations, are presented by resource categories as outlined in the BLM 1620-1625 Manuals, referred to as Supplemental Program Guidance. These decisions read somewhat differently from those listed in the 1994 Proposed Plan and Final Environmental Impact Statement. However, their overall scope and intent have not been changed. The rewording was brought about as a result of editing the Proposed Plan to make it more readable, as requested by both county commissions. In addition, numerous duplications in the RMP Determinations were deleted and are now cross-referenced instead. Also deleted was all reference to the designation of ACECs, seven of which were addressed in the Proposed Plan. Pending the above-mentioned amendment, these seven areas will be managed to protect their special resource values wherever the BLM has discretionary authority to do so.

Readers and users of this document should be aware that the land management decisions discussed herein conform to the principles of multiple use and sustained yield. In practice this means that the management of some resource values affects the conditions under which other resources can be utilized or developed. For example, mitigation to reduce the visual impacts from mineral production is held to higher standards in a Class II Visual Resource Management (VRM) area than in a Class IV area, and the costs of such mitigation conceivably could affect the economic viability of a mining venture. Similarly, exploration and production activities might be restricted in areas of Special Status Species or in areas of Cultural Resources if impacts to these resources cannot successfully be mitigated.

The following are the "Objective" and "Determinations" for each major resource in the planning area.

WATERSHED

Objective:

To maintain or improve watershed conditions in the Tonopah Planning Area.

RMP Determinations:

1. Prepare and implement activity plans (Allotment Management Plans for livestock grazing, Habitat Management Plans for wildlife, and Herd Management Area Plans for wild horses and burros, or the functional equivalents of these documents) in watersheds where there is a high potential to reduce erosion. Rehabilitation techniques and improvements such as check dams and seedings will be utilized. These watersheds are: Oasis Valley, Wagon Johnnie, Hot Creek, Sand Springs, Stone Cabin, Morey, Lone, Monitor, Ralston, Lower Railroad Valley, Reveille, San Antone, Hunts Canyon, Big Smoky, and Lower Hot Creek (see Maps 3 and 4).

Additional watershed determinations are in the following sections: Wildlife Habitat Management, Determination 2. Riparian Habitat, Determinations 1., 2., & 3. Fire Management, Determination 3.

VEGETATION

Objective:

To provide for vegetative and ecological diversity.

RMP Determinations:

1. Manage the vegetation resource for desired plant communities. A general listing of key plant species associated with desired plant communities is shown in Appendix 1 (these key plant species are identified by basic vegetation type and ecological site of occurrence). Descriptions of specific desired plant communities will be developed by allotment at key areas. This will be done in conjunction with grazing permittees and other publics. Descriptions will be based on information collected at the key area sites, including data on ecological potential. Management of the vegetative resource will provide for the physiological needs (such as critical growth periods, biomass production, root reserve increase, and seed production) of the key forage plant species. Key forage plant species are shown by allotment in Appendix 2.

Additional vegetation determinations are in the following sections: Wildlife Habitat Management, Determinations 1. a., 2., 3., and 6. Special Status Species, Determinations 2. and 3. Riparian Habitat, all Determinations. Forestry and Vegetation Products, all Determinations. Livestock

Grazing Management, Determinations 1. b., 1. c., and 2. Wild Horses and Burros, Determination 1. b. Lands and Rights-of-Way, Determinations 1. d., 6. b., and 6. c. Recreation, Determination 4. Recreation (Specific to Special Recreation Management Areas), Determination 2. Utility Corridors, Determination 1. Fire Management, Determinations 3. and 4.

VISUAL RESOURCE MANAGEMENT

Objective:

To designate visual resource management classes and maintain existing scenic qualities.

RMP Determinations:

1. Manage the Tonopah Planning Area for the following Visual Resource Management (VRM) classes (see Maps 7 and 8):

Class I Areas: 0 acres

This class provides primarily for natural ecological changes; however, it does not preclude limited management activity. Any contrast created within the characteristic environment must not attract attention. It is applied to wilderness areas, some natural areas, wild portions of the wild and scenic rivers, and other similar situations where management activities are to be restricted.

Class II Areas:* 469,170 acres

Changes in any of the basic elements (form, line, color, texture) caused by a management activity should not be evident in the characteristic landscape. A contrast may be seen but should not attract attention. Class II VRM areas total 7.7% of the Tonopah Planning Area.

Class III Areas:* 218,000 acres

Contrasts to the basic elements (form, line, color, texture) caused by a management activity may be evident and begin to attract attention in the characteristic landscape. However, the changes should remain subordinate to the existing characteristic landscape. Class III VRM areas total 3.6% of the Tonopah Planning Area.

Class IV Areas:* 5,403,931 acres

Contrasts may attract attention and be a dominant feature of the landscape in terms of scale; however, the change should repeat the basic elements (form, line, color, texture) inherent in the characteristic landscape. Class IV VRM areas total 88.7% of the Tonopah Planning Area.

* Structures in the foreground distance zone (0-½ mile) often create a contrast that exceeds the VRM class, even when designed to harmonize and blend with the characteristic landscape. This may be especially true when a distinctive architectural motif or style is designed. Approval by the Area Manager is required on a case-by-case basis to determine whether the structure(s) meet the acceptable VRM class standards and, if not, whether they add acceptable visual variety to the landscape.

(note: Acreage figures given above assume that Wilderness Study Areas will be released by Congress and returned to multiple-use status)

2. Manage scenic quality along five identified highways as Visual Resource Management Class III areas (State Route 374 between Beatty and Death Valley National Monument, State Route 267 between Scotty's Junction and Death Valley National Monument, State Route 266 between Lida Junction and the California border, State Route 265 between Blair Junction and Silver Peak, and State Route 264 between U.S. 6 and the California border).
3. Manage the Lunar Crater Area (39,680 acres) and all primitive and semiprimitive nonmotorized areas (except for existing roads) as Visual Resource Management Class II areas (see Maps 26, 28, and 29) (also see Appendix 10 for definitions for primitive, semiprimitive nonmotorized, and semiprimitive motorized).

Additional VRM determinations are in the following sections: Recreation (Specific to Recreation Opportunity Spectrums), Determination 1. Wilderness, Determination 3.

WILDLIFE HABITAT MANAGEMENT

Objective:

To maintain and enhance wildlife habitat and provide for species diversity.

RMP Determinations:

1. Continue the following management decisions from previous land use plans:
 - a. The Toiyabe Bench will continue to be managed in cooperation with the Nevada Division of Wildlife and the U.S. Forest Service in accordance with the *Toiyabe Bench Deer Winter Range Management Plan*. Livestock grazing would be excluded on 9,127 acres of crucial deer winter range until the objectives in the *Toiyabe Bench Deer Winter Range Management Plan* have been met. (The Toiyabe Bench has been managed in cooperation with Nevada Division of Wildlife and the U.S. Forest Service since 1985).
 - b. Lockes Meadow, Blue Eagle Pond, Big Well, Chimney Springs, Reynolds Spring and North Spring riparian areas (total 2,317 acres) will be excluded from grazing to achieve riparian objectives in accordance with the *Railroad Valley Wildlife Management Plan*. Livestock grazing may be authorized on a temporary, nonrenewable basis to achieve objectives identified in the *Railroad Valley Habitat Management Plan*.
 - c. Continue to support the augmentation or reintroduction of bighorn sheep by the Nevada Division of Wildlife into potential or existing habitat areas in the Hot Creek, Goldfield, Amargosa, Magruder/Palmetto, Monte Cristo, Montezuma, Silver Peak, Sawtooth, Bare Mountain, and Gold Mountain areas (see Maps 10 and 13).

(note: Nevada Division of Wildlife has conducted bighorn sheep releases on lands administered by the U.S. Forest Service in the Hot Creek Range in 1982 (18 bighorn sheep), 1983 (6 bighorn sheep), 1994 (21 bighorn sheep), and 1995 (21 bighorn sheep). The Stone Cabin, Hot Creek, and Reveille Allotment boundaries cross the Hot Creek Range.)
 - d. Rocky Mountain elk will continue to be managed in cooperation with the Nevada Division of Wildlife and the Forest Service in accordance with the *Monitor Elk Management Plan*. Elk use levels will be determined through monitoring and evaluation.

2. Prepare, revise, or maintain habitat management plans, or their functional equivalent, to enhance the habitat for game and nongame wildlife species, when appropriate. The identification of specific wildlife objectives will be determined when each habitat plan is developed in consultation with affected publics, i.e., range users, interest groups, and county governments. Priorities are as follows:
 - a. Maintain the *Railroad Valley Wildlife Management Area Habitat Management Plan*.
 - b. In conjunction with affected publics, revise the *Silver Peak Habitat Management Plan*.
 - c. In conjunction with affected publics, prepare habitat management plans for the following areas: Bullfrog Hills, Fish Lake Valley (White Mountains), Gold Mountain/Stonewall, Grant/Quinn Range, Hot Creek/Squaw Hills, Lone Valley/Royston Hills, Kawich/Reveille, Magruder/Sylvania/Palmetto, Monte Cristo/Lone Mountain, Montezuma, Pancake Range/Sand Springs, Railroad Valley (except for Wildlife Management Area), Ralston/Monitor Valleys, San Antone/Big Smoky Valley and Stone Cabin/Little Fish Lake Valley.
3. Manage mule deer habitat for best possible condition within the site potential. On 28,920 acres of mule deer winter range, restrict activities which might be disturbing to mule deer between January 15 and May 15 (see Maps 34 and 35, and Appendix 14).
4. On 26,000 acres of sage grouse habitat, restrict activities which might be disturbing to sage grouse between February 15 and May 15 (see Map 34 and Appendix 14).
5. Maintain or improve existing or potential bighorn sheep habitat areas (324,000 acres) (see Maps 10 and 13). To ensure this occurs, management actions will include 1) prohibiting construction of new roads to communication site facilities; 2) limiting vehicle use to existing roads and trails; 3) prohibiting off-highway vehicle events within one-quarter mile of Specie Spring; 4) restricting, between February 1 and May 15, activities in lambing areas which might be disturbing to bighorn sheep (17,480 acres); and 5) prohibiting land uses that are incompatible with bighorn sheep lambing areas at Stonewall Falls and Little Meadows (see Maps 10 and 13, and Appendix 14).
6. Manage pronghorn antelope habitat for best possible condition within the site potential. In conjunction with Nevada Division of Wildlife and other publics, continue to support the reintroduction and augmentation of antelope (see Maps 9 and 12). Develop additional water sources.
7. Off-site mitigation may be negotiated during a plan of operations review for locatable mineral actions when an irretrievable loss of critical or crucial habitat is unavoidable, or a significant long-term adverse impact will occur.

(note: In the 1994 Proposed RMP, population goals for big game species were derived from "reasonable numbers" established by the BLM and Nevada Division of Wildlife more than ten years ago. The Nevada Division of Wildlife no longer recognizes these numbers as valid and does not currently have population goals, particularly on an allotment basis. Therefore, if monitoring data show that wildlife are overusing the vegetative resources, the Nevada Division of Wildlife will be requested to control the herd sizes at a threshold level which avoids resource damage).

(note: In the 1994 Proposed RMP, elk and bighorn sheep habitat were to be managed for good or better condition. The BLM Manual 6630 (NV 6-41, 8/31/82) does not have habitat condition ratings for elk and bighorn sheep, so management of habitat for good or better condition has been eliminated).

(note: The Animal Damage Control determination on p. 2-5 of the Proposed RMP has been eliminated because it is not consistent with the 1995 MOU between the BLM and the Department of Agriculture, Animal Plant Health Inspection Service-Animal Damage Control).

Additional Wildlife Habitat determinations are in the following sections: Lands and Rights-of-Way, Determinations 1. b., 1. e., 3., 4., 6. a., 6. b., 6. d., 8., and 10. Recreation (for General Recreation Management), Determinations 2., 3., and 5. Recreation (Specific to Special Recreation Management Areas), Determinations 1. and 2. Utility Corridors, Determination 1. Fluid Minerals, Determinations 3. and 4. Mineral Materials, Determinations 3. and 4. Nonenergy Leasable Minerals, Determinations 2. and 3. Fire Management, Determination 3.

SPECIAL STATUS SPECIES

Objective:

To protect, restore, enhance, and expand habitat of species identified as threatened, endangered, or Nevada BLM Sensitive Species under the Endangered Species Act.

(The BLM Manual 1622.11A3f, under the heading Threatened or Endangered Species, states: "Determine affirmative conservation measures to improve habitat condition and resolve resource conflicts for listed, proposed, and candidate species. Identify habitat improvement or expansion efforts required to downlist or delist a species").

RMP Determinations:

1. Continue to protect the Railroad Valley springfish and its critical habitat at North Spring and Reynolds Spring (80 acres) through management in accordance with the *Railroad Valley Habitat Management Plan* (see Map 34 and Appendix 14). No land uses will be authorized which are incompatible with the areas' values.
2. Manage desert tortoise Non-Intensive Category III habitat (70,600 acres) to maintain current populations levels (see Map 15). Where new road construction is discretionary, no new roads will be constructed within washes. Livestock grazing will be in accordance with the August 14, 1991 *Biological Opinion for the Proposed Livestock Program Within Desert Tortoise Habitat in Southern Nevada*. Refer to the Livestock Grazing Management determination section for terms and conditions of this Biological Opinion.
3. Habitat for all Federally listed threatened or endangered species or Nevada BLM Sensitive Species (plant and animal) will be managed to maintain or increase current populations of these species. The introduction, reintroduction, or augmentation of Nevada BLM Sensitive Species, as well as Federally listed threatened or endangered species, may be allowed if, in coordination with Nevada Division of Wildlife and the U.S. Fish and Wildlife Service, it is deemed appropriate. Such actions will be considered on a case-by-case basis and will be subject to applicable procedures outlined in the section on Standard Operating Procedures, Environmental Review and Management.

(note: The Nevada BLM Sensitive Species List is designated by the BLM State Director in cooperation with the State of Nevada Department of Conservation and Natural Resources. This list consists of species that are not already included as BLM Special Status Species under 1) Federally listed, proposed, or candidate species; or 2) species listed by the State of Nevada because of potential endangerment or extinction.

BLM policy is to provide sensitive species with the same level of protection as is provided for candidate species under BLM Manual 6840.06 D).

Additional Special Status Species determinations are in the following sections: Livestock Grazing Management, Determination 1. c., 1-7. Lands and Rights-of-Way, Determinations 6. b. and 10. Recreation, Determinations 1., 2., and 3. Utility Corridors, Determination 1. Fluid Minerals, Determination 4. Mineral Materials, Determination 4. Nonenergy Leasable Minerals, Determination 2. Fire Management, Determination 3.

RIPARIAN HABITAT

Objective:

To achieve or maintain the presence of adequate vegetation, landform, or large woody debris to dissipate stream energy associated with high water flows for all riparian-wetland areas (proper functioning condition).

RMP Determinations:

1. Manage for proper functioning condition on all streamside riparian areas, and all springs, seeps, wet meadows and other riparian areas in the Tonopah Planning Area, including the 32.8 miles of streams identified in Table 1 (see Maps 14 and 15).
2. Where streams and riparian areas are functioning but are at risk of deteriorating, manage for an improving trend, as determined using techniques described in current BLM Technical References and/or other BLM guidelines. If needed, and in conjunction with the grazing permittees and other publics, design and implement management practices to achieve an upward trend. If the desired trend does not occur, the responsible class of animal (where it can be determined) will be reduced or excluded.
3. Where streams and riparian areas are nonfunctional, work with livestock permittees and other publics to modify management. If the desired trend does not occur, the responsible class of animal (where it can be determined) will be reduced or excluded.
4. Manage the following streams for trout habitat: Barley Creek, Barker Creek, Clear Creek, Corcoran Creek, Jefferson Creek, Moores Creek, Mosquito Creek, Perry Aiken Creek, Pine Creek, Silver Peak Pond Creek, and Troy Creek (9.4 miles) (see Table 1, next page).

Additional Riparian Habitat determinations are in the following sections: Vegetation, Determination 1. Wildlife, Determination 1. b. Lands and Rights-of-Way, Determinations 1. b., 3., 4., 6. b., 7., and 10. Recreation, Determinations 2. and 3. Recreation (Specific to Special Recreation Management Areas), Determination 1. Utility Corridors, Determination 1. Fluid Minerals, Determination 4. Mineral Materials, Determination 4. Nonenergy Leasable Minerals, Determination 2.

**TABLE 1
SUMMARY OF STREAM HABITAT IN THE TONOPAH PLANNING AREA**

STREAM NAME	MILES ON BLM	FISH SPECIES	STREAM NAME	MILES ON BLM	FISH SPECIES
Amargosa River	2.0	Oasis Valley Speckled Dace ¹	Jefferson Creek	1.0	Rainbow Trout
Barker Creek	0.5	Brook and Rainbow Trout	Little Meadow	1.0	
Barley Creek	1.0	Brook, Rainbow, and Brown Trout	Moores Creek	0.5	Rainbow, Brook, and Brown Trout
Breen Creek	2.4		Mosquito Creek	0.5	Rainbow and Brook Trout
Clear Creek	1.0	Brook and Rainbow Trout*	Ox Springs Wash	0.3	
Corcoran Creek	1.0	Rainbow and Brown Trout*	Perry Aiken Creek	1.0	Rainbow and Brown Trout*
Cottonwood	1.0		Pine Creek	0.5	Rainbow and Brown Trout*
Deep Creek	1.0		Rock Creek	6.2	
Eden Creek	5.0		Silver Peak Pond Creek	1.4	Rainbow Trout
Hooper Canyon	1.0		South Sixmile	1.0	
Hunts Canyon	2.0		Troy Canyon	1.0	Brook Trout

¹ Nevada BLM Sensitive Species. * Indicates unconfirmed occurrence of the species.

FORESTRY AND VEGETATIVE PRODUCTS

Objective:

To provide forest and other vegetation products for consumptive use on a sustained yield basis.

RMP Determinations:

1. Authorize the harvest of live trees for firewood, fence posts, and other woodland products in greenwood cutting areas. Limit authorization to 1,000 cords per year. This quantity may be adjusted through monitoring and evaluation. If Kawich and Silver Peak Wilderness Study Areas are released by Congress, greenwood cutting areas may be established within those areas. Establish new greenwood cutting areas at Bellehelen, Montezuma, Hot Creek Mountains, Squaw Hills, and Kawich, and expand cutting areas at Silver Peak, Palmetto and Palmetto Wash (total of 11,850 acres). Newly opened cutting areas may be closed when tree canopy cover is reduced to between 10 and 20 percent. Commercial harvest may be allowed in any of these areas.
2. Pinyon and juniper deadwood may be harvested in all accessible woodland acreage outside wilderness study areas. The removal of dead mahogany, cottonwood or aspen will be prohibited in order to maintain suitable wildlife habitat.
3. The harvest of Joshua trees for landscape uses will not be authorized in the Joshua tree viewing area (100,000 acres) (see Map 31, area 5). Commercial harvest of Joshua trees will be authorized only through salvage operations incidental to surface disturbance. Until a complete inventory is available to determine the sustained yield and a new level of authorization can be calculated, noncommercial authorizations will be limited to 100 trees per year.

4. Authorize cutting of Christmas trees only in areas outside wilderness study areas, and limit harvest to 1,000 trees per year. This quantity may be adjusted through monitoring and evaluation. Authorize only noncommercial harvest.
5. Authorize the collection of common desert plants and seeds. Creosote bush harvest will be authorized only northwest of State Route 267 in Nye County. No sales of live desert plants will remove more than 10 percent of the existing canopy cover. This quantity may be adjusted through monitoring and evaluation.

LIVESTOCK GRAZING MANAGEMENT

Objective:

To create healthy, productive rangelands through implementation of the recommendations of the ongoing rangeland monitoring and evaluation program.

RMP Determinations:

1. Continue the following management practices:
 - a. The Tonopah MFP and Tonopah Grazing EIS, along with the Esmeralda-Southern Nye RMP/EIS, provide the guidance necessary for the livestock grazing program (see Appendices 16 to 19). The Experimental Stewardship Program and the CRMP Process, however, are not currently the methods used for allotment planning; BLM policy has changed since 1981. The Experimental Stewardship Program was an experimental program to develop Allotment Management Plans (AMPs) coordinated through the CRMP process in order to provide additional involvement in AMP development. These processes have been supplanted by the multiple-use process. All valid guidance from previous documents on grazing management (Appendices 16 to 19) will be incorporated into the multiple-use process, as modified by applicable policy changes.
 - b. Manage livestock at initial stocking levels of 134,355 animal unit months for the Tonopah East area and 46,371 animal unit months for the Tonopah West area (see Appendices 5 and 6). Adjustments in use for each allotment will be based on short-term and/or long-term monitoring data methods as outlined in the *Nevada Rangeland Monitoring Handbook* and other BLM technical references. Monitoring will be in consultation with the grazing permittee and other publics. If the desired trend does not occur, the responsible class of animal (where it can be determined) will be reduced or excluded. In allotments where monitoring data do not distinguish individual use between livestock and wild horses and/or burros, the stocking level for livestock will be based on a proportion derived from previous planning documents (see Appendices 16 to 19). Allotment boundaries are shown on Maps 16 and 17.
 - c. In accordance with the August 14, 1991 *Biological Opinion for the Proposed Livestock Program Within Desert Tortoise Habitat in Southern Nevada* (see Map 15), the following terms and conditions will be placed in affected Section 15 grazing leases within Non-Intensive Category III desert tortoise habitat (70,600 acres):
 - 1) Livestock use within desert tortoise habitat may occur from March 1 through October 14; forage utilization shall not exceed 40 percent on key perennial grasses, forbs, and shrubs.

- 2) Livestock use in desert tortoise habitat may occur from October 15 through February 28; forage utilization shall not exceed 50 percent on key perennial grasses and 45 percent on key shrubs and perennial forbs.
 - 3) The key forage species within this habitat include as a minimum: Desert Needlegrass (*Stipa speciosa*), Indian Ricegrass (*Oryzopsis hymenoides*), White Burrobrush (*Hymenoclea salsola*) and Winterfat (*Eurotia lanata*).
 - 4) Should utilization exceed 40 percent on key perennial grasses, forbs, and shrubs during the period of March 1 through October 14; or 50 percent on key perennial grasses and 45 percent on key shrubs and perennial forbs during the period of October 15 through February 28, the lessee shall have ten (10) calendar days in which to remove all livestock from desert tortoise habitat. Utilization within each allotment shall not be averaged either among locations or over time.
 - 5) All vehicle use in desert tortoise habitat associated with the livestock grazing program shall be restricted to existing roads and trails.
 - 6) Trash and garbage associated with livestock grazing operations, i.e., branding, roundups, etc., shall be removed from each camp site or work location and disposed of off-site in a designated facility. No trash or garbage shall be buried at work locations within desert tortoise habitat.
 - 7) Use of hay or grains as a feeding supplement shall be prohibited in desert tortoise habitat to avoid the introduction of nonnative plant species. Mineral and salt blocks may be authorized in accordance with Title 43, Code of Federal Regulations 4100.
- d. Continue with the "closed to livestock grazing" status of public lands at Columbus Salt Marsh and Emigrant Peak areas (see Map 17).
 - e. Develop the proposed range improvement projects, as outlined in the *Tonopah Grazing Environmental Impact Statement* and *Esmeralda-Southern Nye Resource Management Plan*, that have not been completed (see Appendix 4).
2. Manage 22 allotments as "I" category (Improve the current resource condition), three allotments as "M" category (Maintain the current resource condition), and nine allotments as "C" category (Custodially manage the existing resource condition) (see Table 2, next page) (Also, see the Glossary for further definitions of these categories).

Additional livestock determinations are in the following sections: Vegetation, Determination 1. Wildlife Habitat Management, Determinations 1., 3., 4., 5., and 6. Riparian Habitat, Determinations 1., 2., and 3. Cultural Resources, Determinations 2. a. 1) and 2. c. 1).

**TABLE 2
ALLOTMENT CATEGORIZATION¹**

ALLOTMENT	MGT CATEGORY	ALLOTMENT	MGT CATEGORY	ALLOTMENT	MGT CATEGORY
Blue Eagle	C	Monitor	I	Silver King	C
Butterfield	C	Monte Cristo	I	Silver Peak	M
Currant Ranch	C	Montezuma	I	Smoky	I
Crater Black Rock	I	Morey	I	Springdale #2	C
Fish Lake Valley	C	Nyala	I	Stone Cabin	I
Forest Moon	C	Ralston	I	Wagon Johnnie	I
Francisco	I	Razorback	I	White Sage	M
Hot Creek	I	Red Springs	I	White Wolf	I
Hunts Canyon	I	Reveille	I	Willow Creek	I
Ice House	M	San Antone	I	Yellow Hills	C
Ione	I	Sand Springs	I		
Magruder Mtns	I	Sheep Mtn	C		

¹ For additional information on the criteria used to rate each allotment and the results of each rating, see the supporting records in the Tonopah Field Station.

WILD HORSES AND BURROS

Objective:

To manage wild horse and/or burro populations within Herd Management Areas at levels which will preserve and maintain a thriving natural ecological balance consistent with other multiple-use objectives.

RMP Determinations:

1. Continue the following management determinations:
 - a. Manage wild horses and/or burros in 16 herd management areas (HMAs) listed in Table 3 below (see Maps 18 and 19, and Appendices 8A and 8B).
 - b. Manage wild horses and/or burros at appropriate management level (AML) or interim herd size (IHS) for each herd management area as outlined in Table 3 (next page). (These numbers may have been adjusted through court decisions or multiple-use decisions since the October 1994 Proposed RMP.) Appendices 8A and 8B (as modified by Table 3) show interim herd sizes and appropriate management levels by grazing allotment. Future herd size or appropriate management levels within each herd management area will be adjusted as determined through short-term and long-term monitoring data methods as outlined in the *Nevada Rangeland Monitoring Handbook* and BLM technical references (see also Appendix 7).
 - c. Discontinue use of the Monitor Herd Management Area. In the 1974 census the horses identified as wild horses were actually privately owned.
 - d. Assure sufficient water and forage exist for wild horses and/or burros in herd management areas.

2. When the appropriate management level (or in some cases the interim herd size) is exceeded, remove excess wild horses and/or burros to a point which may allow up to three years of population increase before again reaching the appropriate management level or interim herd size listed in Table 3.
3. Apply for appropriate water rights and/or assert public water reserves on water sources as necessary to ensure a reliable, year-round water source for wild horses and burros in herd management areas.

TABLE 3
INTERIM HERD SIZE OR APPROPRIATE MANAGEMENT LEVEL

Herd Management Area	Interim Herd Size ¹	Appropriate Management Levels ²	Total HMA Population Size (IHS + AML) ³
Bullfrog	12 horses, 142 burros	53 burros	12 horses, 195 burros
Dunlap	69 horses	-	69 horses
Fish Lake Valley	8 horses	57 horses & burros	65 horses & burros
Gold Mountain		50 horses	50 horses
Goldfield	227 horses, 71 burros		227 horses, 71 burros
Hot Creek		41 horses	41 horses
Little Fish Lake		39 horses	39 horses
Montezuma	140 horses	13 horses	153 horses
Palmetto	-	76 horses	76 horses
Paymaster/Lone Mountain	48 horses		48 horses
Reveille		145-165 horses ⁴	145-165 horses
Sand Springs		49 horses	49 horses
Saulsbury		40 horses	40 horses
Silver Peak	230 horses	82 horses	312 horses
Stone Cabin		364 horses	364 horses
Stonewall	13 horses, 34 burros		13 horses, 34 burros
total			1,723 horses 300 burros

¹ Interim herd size is derived from previous planning documents and is the appropriate management level until modified or adjusted by monitoring and evaluation.

² The appropriate management level is the maximum number of wild horses and/or burros to be managed in a herd management area and has been or will be set through monitoring and evaluation or by court order.

³ This number is a combination of Interim Herd Size (IHS--where no multiple-use decision [MUD] has been completed) and the Appropriate Management Level (AML--as determined by a MUD). Where a Herd Management Area (HMA) encompasses two or more allotments, there may be an AML for the allotment(s) in which MUDs have been completed and an IHS number for those in which MUDs have not yet been prepared.

⁴ High and low management levels as directed by 1987 Court Decision (Civil R-85-535 BRT) Fallini vs. Hodel.

The Montezuma Grazing Allotment Multiple Use Decision (MUD) of February 11, 1994, is currently under appeal. If Affirmed, 5 HMAs in the above section will change to:

Bullfrog	2 burros	12 horses, 183 burros	12 horses, 185 burros
Goldfield	-	125 horses, 50 burros	125 horses, 50 burros
Montezuma Peak	2 horses	155 horses	157 horses
Paymaster/Lone Mtn.	45 horses	5 horses	50 horses
Stonewall	-	50 horses, 25 burros	50 horses, 25 burros
Adjusted total of all HMAs			1,664 horses, 260 burros

CULTURAL RESOURCES

Objective:

To protect archaeological, historical, paleontological, and sociocultural resources and manage for information potential (useful scientific, historic, or management information), public values (sociocultural, educational, or recreational values), and conservation (overriding scientific or historic importance) in conjunction with other multiple uses (see Appendix 11 for further explanation of these management guidelines).

RMP Determinations:

1. Continue the present management practices:
 - a. Manage the Trap Springs-Gravel Bar Complex for information potential by maintaining the existing road closures until the information potential of this complex can be recovered through a comprehensive research and data recovery program.
 - b. The Berlin Town Site (704 acres) will be managed for public values and conservation and its recreation values will be managed in conjunction with the State Park.
 - c. Paleontological resources will be managed to protect specimens and maintain or enhance the following areas for their scientific and educational values: 1) fossiliferous sedimentary rocks and Quaternary alluvium, 2) Lone Valley, 3) Tonopah Flat, and 4) Gabbs Valley.
2. Classify and manage the following cultural resources for their information potential, public values, and conservation.

- a. Manage for Information Potential.

Rockshelters; Late Pleistocene/Western Pluvial Lakes Tradition Sites; sites on valley bottoms lacking Pleistocene lake features; historic sites lacking clear association with either established mining districts, locally important ranching operations or major transportation routes; and sites on upper and lower bajada slopes.

Specific management determinations are as follows:

- 1) Manage the Stormy-Abel Site Complex (12,320 acres) by prohibiting new range improvements or other actions that would increase grazing in the vicinity of Storm, Coyote, and Abel Springs.
- 2) Manage the Trap Springs-Gravel Bar Complex (8,480 acres) to maximize data recovery and salvage of cultural resources, while allowing for oil and gas production. This will be done by developing and implementing a comprehensive data recovery program and prohibiting gravel sales on The Gravel Bar (679 acres).

- b. Manage for Public Values:

Rockshelters; Late Pleistocene/Western Pluvial Lakes Tradition Sites; sites on valley bottoms lacking Pleistocene lake features; historic sites lacking clear association with either established mining districts, locally important ranching operations or major transportation routes; and sites on upper and lower bajada slopes.

Specific management determinations are as follows:

- 1) Fluid mineral leasing will be allowed with a no-surface occupancy stipulation at Jumbled Rock Petroglyphs (10 acres), Moores Station Petroglyphs (40 acres), and Mountain View Arrastra (40 acres) (see Map 33; also see Appendix 14 for legal descriptions).
- 2) Withdraw from mineral entry Moores Station Petroglyphs (40 acres), Mountain View Arrastra (40 acres), and Tybo-McIntyre Charcoal Kilns (80 acres) (see Map 24; also see Appendix 14 for legal descriptions).
- 3) No land uses will be authorized which are incompatible with cultural values and limit vehicle use to existing roads and trails at Moores Station Petroglyphs (40 acres) and Mountain View Arrastra (40 acres).
- 4) Manage the Rhyolite area (425 acres) to protect historic structures for public uses. Land disposal will not be allowed. No land uses will be authorized which are incompatible with the area's values. Limit vehicle use to existing roads and trails. Provide for signing and barricades to exclude people from unsafe structures. Establish a Special Recreation Management Area. Allow mineral leasing with a no-surface-occupancy stipulation. Withdraw 126 acres from mineral entry (see Appendix 14 for legal descriptions).
- 5) Protect historic structures of the Tybo-McIntyre Charcoal Kilns (80 acres; 20 acres around each set of kilns). Manage historical values for conservation and public values. No land uses will be authorized which are incompatible with the area's special values. Improve access roads and trails. Develop visitor use facilities and establish a Special Recreation Management Area. Allow mineral leasing with a no-surface-occupancy stipulation. Withdraw the area from mineral entry. (See Appendix 14 for legal descriptions).

c. Manage for Conservation:

Rock shelters with datable deposits (sites that contain material that can be assigned to a specific time period); stratified sites (sites that contain layers of materials that can be dated from different time periods); late Pleistocene/western pluvial lakes tradition sites; historic sites associated with established mining districts, locally important ranching operations or major transportation routes; and sites containing paleoenvironmental data.

Specific management determinations are as follows:

- 1) Cane Man Hill Area (680 acres) will be managed to protect its prehistoric values (see Map 27). No land uses will be authorized that are incompatible with the area's values. Manage cultural resources for conservation (see Appendix 14).
3. Prepare a Class I overview of cultural resources for the entire Tonopah Planning Area.
 4. Develop cultural resource activity plans for the following areas: Trap Springs-Gravel Bar Complex, Stormy-Abel Complex, Cane Man Hill Petroglyphs, Tybo-McIntyre Charcoal Kilns, Moores Station Petroglyphs, Jumbled Rock Petroglyphs, Tonopah Lake Complex, Mud Lake Complex, Big Springs Petroglyphs, Fish Lake Valley Petroglyphs, Mountain View Arrastra, Columbus Salt Marsh, Witched Well, Oriental Wash Petroglyphs, Cave Spring, and The Cistern.
 5. Develop a rock-art management plan for the Tonopah Planning Area in consultation with Native American Leaders.

LANDS AND RIGHTS-OF-WAY

Objective:

To make lands available for community expansion and private economic development and to increase the potential for economic diversity.

RMP Determinations:

1. Continue the following management determinations:
 - a. Make 43,760 acres of public land available for lease or disposal under the Desert Land Act, the Carey Act, and other applicable authorities (see Appendix 14 and Maps 20, 21, 40, and 41).
 - b. If economically prudent and if the owner is agreeable, acquire the following private lands: Pritchards Station (160 acres) for historic stagecoach station values, Moores Station (160 acres) for historic stagecoach station and riparian and wildlife values, and Lockes Ranch (480 acres) (see Appendix 14 and Map 20).
 - c. Continue the classification of 10,863 acres, as appropriate, for lease or disposal under the following authorities: FLPMA; Recreation and Public Purposes Act; Desert Land Act; Carey Act; Airport Leases, and other applicable authorities (see Appendices 9 and 14, and Maps 20, 21, 40, and 41).
 - d. If Congress does not designate the Pinyon/Joshua Tree Transition Research Natural Area as wilderness, revoke the Natural Area designation. The Research Natural Area designation has been evaluated as inappropriate because no pinyon trees are known to occur within the designated area.
 - e. Continue the existing withdrawal of 6,682 acres: Air Force (619 acres), BLM-Power Site Reserve (17 acres), portions of the Railroad Valley Area (3,040 acres), Department of Energy (2,571 acres, Federal Aviation Administration (418 acres), Forest Service Administration (12 acres), and the BLM Administrative Site (5 acres) (see Appendix 9).
2. Make an additional 255,380 acres of public land available for potential disposal (see Appendix 14, and Maps 20, 21, 40, and 41).
3. Retain for the purposes of multiple-use resource management those public lands previously identified for disposal within the Amargosa-Oasis Area, riparian areas along Perry Aiken Creek and Jefferson Creek, and deer winter range near Chiatovich Creek (total 6,280 acres) (see Appendix 14, and Maps 20 and 21).
4. If economically prudent and if the owner is agreeable, acquire the following private lands through exchange and/or purchase: Amargosa-Oasis Area (280 acres) and Rhyolite Area (120 acres) (see Appendix 14 and Maps 20 and 21).
5. If the original entrant or the entrant's assignee fails to "prove up" under the agricultural land laws, lands clasified for agricultural entry will be disposed of only under the sale and exchange authorities.

6. In rights-of-way avoidance areas, rights-of-way and other discretionary lands actions will be granted only if no feasible alternative routes are available (see Maps 22 and 23). All other lands within the Tonopah Planning Area in which there are no unresolvable conflicts with other resource values will be open to consideration for linear or areal rights-of-way, leases, and land-use permits. Any such grants, leases, or permits will include appropriate stipulations to protect the area's special values. The following rights-of-way restrictions will be established:
 - a. Seasonal Restrictions on construction activities (72,400 acres) (see Wildlife Determinations 3., 4., and 5.).
 - b. New or amended rights-of-way within the following areas will have to be compatible with the special values of the area: desert tortoise habitat (70,600 acres); bighorn sheep lambing grounds (17,480 acres); Moores Station Petroglyphs (40 acres); Mountain View Arrastra (40 acres); Clayton Valley Sand Dunes Special Recreation Management Area (2,500 acres); Crescent Sand Dunes Special Recreation Management Area (3,000 acres); Lunar Crater (39,680 acres); Amargosa-Oasis (490 acres); Cane Man Hill (680 acres); Lone Mountain (14,400 acres); Railroad Valley (14,720 acres); Rhyolite (425 acres); and Tybo-McIntyre Charcoal Kilns (80 acres), for a total of 148,845 acres. (Some areas overlap, affecting total.)
 - c. Communication sites will not be authorized within the Lone Mountain Area (14,400 acres).
 - d. On 324,000 acres of bighorn sheep habitat, construction of new roads to communications sites will be prohibited (see Maps 10 and 13, and Appendix 14).
7. Terminate all classifications under the Small Tract Act and Classification and Multiple Use Act (1,992 acres) (see Appendix 9). Termination of Small Tract Classification 148 in T. 12 S., R. 46 E., sec. 16 (Rhyolite bottle house) will be deferred until completion of the Plan amendment addressing ACECs, and will be done only when the land is closed to [withdrawn from] operation of the public land laws, including the mining laws.
8. Reduce the withdrawal to locatable minerals of the Railroad Valley Wildlife Management Area from 14,720 acres to 3,040 acres, if appropriate, pending the outcome of the ACEC amendment to this RMP (see Appendix 14).
9. If Congress does not designate the Pinyon/Joshua Tree Transition Research Natural Area (520 acres) as wilderness, terminate the withdrawal.
10. Withdraw an additional 28,996 acres from mineral entry as follows: bighorn sheep lambing grounds at Stonewall Falls and Little Meadows (1,440 acres); occupancy trespass resolution at Gold Point Townsite (60 acres); portions of Lunar Crater (25,600 acres); Amargosa-Oasis (490 acres); Cane Man Hill (680 acres); portions of the Rhyolite area (126 acres); Tybo-McIntyre Charcoal Kilns (80 acres); portions of the Railroad Valley Area (440 acres); Mountain View Arrastra (40 acres); and Moores Station Petroglyphs (40 acres) (See Appendix 14 and Maps 24 and 25).
11. Allowance of agricultural entry on any of the lands identified for disposal will segregate the entered lands from mineral entry.

RECREATION

Objective: (for General Recreation Management)

To encourage safe, public access and recreational use of public lands while ensuring protection of important resource values.

RMP Determinations:

1. In order to protect sensitive resource values such as threatened and endangered species and cultural resources, designate 1,250,290 acres as limited to vehicle use (restrictions limiting use to existing roads, trails, and washes; seasonally; or by type of user) and keep 4,840,811 acres open to unrestricted vehicle use. (see Maps 30 and 31 for Off-Highway Vehicles Restrictions; also see Appendix 3 for definitions of Off-Highway Vehicle restrictions and terms).
2. Limit vehicles to existing roads and trails in the following areas to protect sensitive resource values such as threatened and endangered species and cultural resources: Lunar Crater (39,680 acres); Amargosa-Oasis (490 acres); Cane Man Hill (680 acres); Lone Mountain (14,400 acres); Railroad Valley (14,720 acres); Rhyolite (425 acres); Tybo-McIntyre (80 acres); desert tortoise habitat (70,600 acres); bighorn sheep habitat (324,000 acres); Stormy-Abel Prehistoric District until the cultural resource information potential is recovered (12,320 acres); Trap Springs-Gravel Bar Complex until the cultural resource information potential is recovered (8,840 acres); the Sump (1,600 acres); Moores Station Petroglyphs (40 acres); Mountain View Arrastra (40 acres); primitive, semiprimitive nonmotorized and semiprimitive motorized areas (895,215 acres); and areas adjacent to trout habitat (300-foot-wide strip on each side of 9.4 miles of stream - see Riparian Habitat, Determination 5.). Note: Some of the above areas overlap, affecting the overall total.)
3. The following areas will be closed to competitive recreational events to protect sensitive resource values such as threatened and endangered species and cultural resources: Specie Spring (160 acres); Mud Spring (160 acres); Moores Station Petroglyphs (40 acres); Mountain View Arrastra (40 acres); Lunar Crater (39,680 acres); Amargosa-Oasis (490 acres); Cane Man Hill (680 acres); Lone Mountain (14,400 acres); Railroad Valley Area (14,720 acres); Rhyolite (425 acres); Tybo-McIntyre (80 acres); The Sump (1,600 acres); Clayton Valley Sand Dunes (2,500 acres); Crescent Sand Dunes (3,000 acres); and primitive, semiprimitive nonmotorized, and semiprimitive motorized areas until released by Congress from further wilderness consideration (see Wilderness Determinations).
4. Competitive events will be limited to existing roads and trails in the Joshua tree viewing area (see Map 31, area 5).
5. Competitive events are seasonally restricted on 72,400 acres of wildlife habitat (see Wildlife Determinations; also see Appendix 14, VI. No Surface Occupancy Seasonal Restrictions, and Maps 34 and 35).

Additional recreation determinations are in the following sections: Wildlife Habitat Management, Determinations 2., 3., 4., and 5. Cultural Resources, Determination 1.

Objective: (Specific to Special Recreation Management Areas)

To manage as Special Recreation Management Areas (SRMAs) those areas where the presence of high-quality natural resources, and current or potential recreational use, warrant intensive recreation management.

RMP Determinations:

1. The following areas will be designated as SRMAs: Clayton Valley Sand Dunes (2,500 acres); Crescent Sand Dunes (3,000 acres); Lunar Crater (39,680 acres); Railroad Valley Wildlife Area (14,720 acres); Rhyolite (425 acres); Tybo-McIntyre (80 acres); and any acquired lands which have high recreational values and require intensive management of their uses (see Appendix 14).
2. Vehicle use within SRMAs will be limited to existing roads and trails. Off-highway vehicle use on unvegetated sand areas may be allowed provided that such vehicle use is compatible with the areas' values. Fluid mineral leasing will be allowed subject to a no-surface-occupancy stipulation.

Objective: (Specific to Extensive Recreation Management)

To provide dispersed recreation opportunities on all lands which are not designated as Special Recreation Management Areas.

RMP Determination:

1. Designate the Tonopah Extensive Recreation Management Area to include the 6,026,570 acres not within a Special Recreation Management Area. Develop minimal facilities necessary to meet the needs of dispersed recreational uses and to protect the environment. Approximately 60 acres will be used in construction of facilities; specific locations are not yet identified.

Objective: (Specific to Back Country Byways)

To establish Back Country Byways to facilitate visitation to less-frequented public lands, and to showcase areas of scenic, wildlife, natural, cultural, and recreational interests.

RMP Determination:

1. In conjunction with local government and other publics, designate the Emigrant Pass, Lunar Crater Volcanic Field, and Morey-Hot Creek Back Country Byways.

Objective: (Specific to Recreation Opportunity Spectrums)

To provide a full range of recreational settings, from rural to wilderness, for the pursuit of a wide variety of recreational opportunities.

RMP Determination:

1. Manage 465,725 acres for semiprimitive motorized values. Manage 90,370 acres for primitive and 339,120 acres for semiprimitive nonmotorized recreation opportunity settings. Primitive and semiprimitive nonmotorized lands will be managed for Class II Visual Resource Management (see Maps 28, 29 and Appendix 10).

WILDERNESS

Objective:

To manage all lands released from wilderness consideration by Congress as a part of the full spectrum of multiple uses within the Tonopah Planning Area.

RMP Determinations:

If released by Congress from further wilderness consideration, Wilderness Study Areas will be:

1. Managed as proposed in other resource programs (see Maps 26 and 27).
2. Managed for 90,370 acres of primitive values, 245,780 acres of semiprimitive nonmotorized values, and 268,385 acres of semiprimitive motorized values.
3. Managed as Visual Resource Management Class II areas to comply with BLM policy. No competitive events will be authorized.

UTILITY CORRIDORS

Objective:

To facilitate the placement of major transportation and utility systems passing through the Tonopah Planning Area and to minimize conflicts with other resource values.

RMP Determination:

1. Designate transportation and utility corridors on 668 lineal miles (this includes those previously designated in the Esmeralda-Southern Nye Resource Management Plan, Area A) (see Maps 20 and 21). The following areas will be avoided: all primitive areas (see Maps 28 and 29); Clayton Valley Sand Dunes (2,500 acres); Crescent Sand Dunes (3,000 acres); Amargosa-Oasis (480 acres); Cane Man Hill (680 acres); Rhyolite (425 acres); Tybo-McIntyre Charcoal Kilns (80 acres); Lunar Crater (39,680 acres); Lone Mountain (14,400 acres); and Railroad Valley riparian and wildlife habitat areas (except a portion west of the Grant Range). Refer to Appendix 14 for a legal description of these areas (except the primitive areas).

FLUID MINERALS

Objective:

To provide opportunity for exploration and development of fluid minerals such as oil, gas, and geothermal resources, using appropriate stipulations to allow for the preservation and enhancement of fragile and unique resources.

RMP Determinations:

1. A total of 5,360,477 acres (88% of the Tonopah Planning Area) will be open to fluid mineral leasing subject to standard lease terms and conditions.

2. A total of 607,799 acres will be closed to fluid mineral leasing (Berlin Town Site, 704 acres; Project Faultless, 2,560 acres; and Wilderness Study Areas (WSAs), 604,535 acres (see Map 34 and Appendix 14; for WSAs see also Wilderness Determinations and Maps 26 and 27).
3. A total of 72,400 acres will be open to fluid mineral leasing subject to seasonal restrictions because of crucial wildlife habitat (see Wildlife Determinations 3., 4., and 5.) (see Maps 34 and 35 and Appendix 14). (Some areas overlap, affecting acreage totals.)
4. A total of 50,425 acres will be open to fluid mineral leasing subject to no-surface-occupancy for the following areas: Amargosa-Oasis (490 acres); a portion of the Railroad Valley Area (3,480 acres); Cane Man Hill (680 acres); Rhyolite (425 acres); Tybo-McIntyre Charcoal Kilns (80 acres); Lunar Crater (39,680 acres); Mountain View Arrastra (40 acres); Moores Station Petroglyphs (40 acres); Jumbled Rock Petroglyphs (10 acres); Clayton Valley Sand Dunes (2,500 acres); and Crescent Sand Dunes (3,000 acres) (see Appendix 14).

(note: The determinations made for mineral leasing include geophysical exploration. Waivers to these determinations will be considered if the identified resource values can be protected.)

LOCATABLE MINERALS

Objective:

To provide opportunity for exploration and development of locatable minerals such as gold, silver, copper, lead, zinc, molybdenum, etc., consistent with the preservation of fragile and unique resources in areas identified as open to the operation of the mining laws.

RMP Determination:

1. A total of 6,028,948 acres (99% of the Tonopah Planning Area) will be open to the operation of the mining laws (see Maps 24 and 25).

Additional Locatable Minerals determinations are in the section on Lands and Rights-of-Way, Determinations 1.e., 8., 9., 10., and 11.

MINERAL MATERIALS

Objective:

Provide for the extraction of mineral materials such as sand, gravel, building stone, cinders, etc., to meet public demand.

RMP Determinations:

1. A total of 5,377,858 acres (88% of the Tonopah Planning Area) will be open to mineral material disposal under standard terms and conditions. Continue to provide mineral materials from existing authorized sources unless closed to meet specific management objectives of other resources. Open new sand and gravel pits as necessary.
2. Black Rock Lava Flow and Easy Chair Crater, a portion of the Lunar Crater Area, will remain closed to mineral material sales.

3. A total of 72,400 acres will be open to the extraction of mineral materials subject to seasonal restrictions because of crucial wildlife habitat (see Wildlife Determinations 3., 4., and 5.) (see Maps 34 and 35 and Appendix 14).
4. Close the following areas to mineral material disposal: Berlin Town Site (704 acres); Project Faultless (2,560 acres); Mountain View Arrastra (40 acres); Moores Station Petroglyphs (40 acres); Jumbled Rock Petroglyphs (10 acres); Amargosa-Oasis (490 acres); portions of the Railroad Valley Area (3,480 acres); Cane Man Hill (680 acres); Tybo-McIntyre Charcoal Kilns (80 acres); Rhyolite area (425 acres); Lunar Crater (39,680 acres); The Sump (1600 acres); The Gravel Bar (679 acres) (see Appendix 14); recreational facilities in the Extensive Recreation Management Area (estimated to be 60 acres total; however, specific locations have not yet been identified), and Wilderness Study Areas (604,535 acres; see Wilderness Determinations) (see Maps 34 and 35, and Appendix 14).

NONENERGY LEASABLE MINERALS

Objective:

To provide opportunity for the leasing and development of solid leasable minerals such as sodium, potassium, phosphate, etc.

RMP Determinations:

1. A total of 5,481,206 acres (90% of the Tonopah Planning Area) will be open to nonenergy mineral activities under standard terms and conditions.
2. Close the following areas (55,360 acres) to nonenergy mineral leasing: Berlin Town Site (704 acres); Project Faultless (2,560 acres); Mountain View Arrastra (40 acres); Moores Station Petroglyphs (40 acres); Jumbled Rock Petroglyphs (10 acres); Clayton Valley Sand Dunes (2,500 acres), Crescent Sand Dunes (3,000 acres); The Sump (1600 acres); Lunar Crater (39,680 acres); Amargosa-Oasis (490 acres); portions of the Railroad Valley Area (3,480 acres); Cane Man Hill (680 acres); Tybo-McIntyre (80 acres); Rhyolite (425 acres); and recreational facilities in the Extensive Recreation Management Area (estimated to be 60 acres total; however, specific locations have not been identified) (see Maps 34 and 35, and Appendix 14). (Some areas overlap, affecting acreage total.) In addition, Wilderness Study Areas (604,535 acres; see Wilderness Determinations) will be closed to nonenergy mineral leasing. Those areas released by Congress from Wilderness consideration will return to multiple use.
3. A total of 72,400 acres will be open to nonenergy mineral leasing subject to seasonal restrictions because of crucial wildlife habitat (see Wildlife Determinations 3., 4., and 5.) (see Maps 34 and 35 and Appendix 14).

FIRE MANAGEMENT

Objective:

To protect natural resources from unacceptable damage by fire in a cost-effective manner with a high regard for private property and safety. Promote resource management through prescribed fire to maintain the natural component of the ecosystem.

RMP Determinations:

1. All wildfires in Fire Management Zone 1 will receive aggressive initial attack, to contain all fires in intensity levels 1 through 6, 90 percent of the time to 300 acres or less. All fire zones are shown on Maps 38 and 39.
2. Wildfires that threaten life and property will be kept to five acres or less 90 percent of the time utilizing the most cost-effective and efficient suppression action. This will include town sites, developed mines, ranches, powerlines, and other structures and property.
3. Wildfires that threaten resources such as critical watersheds, riparian areas, desirable range (salt desert shrub), sage grouse strutting grounds, sensitive plant species sites, cultural resource sites, and sensitive forage plant species (bitterbrush and mountain mahogany) will be kept to minimum acres utilizing suppression action which could suppress and/or divert the fire and be cost-effective and efficient.
4. If an approved natural prescribed fire plan is written, some wildfires in Fire Management Zone 2 may be allowed to burn to promote a more natural fire regime. The sagebrush/pinyon-juniper vegetation type is considered a fire-dependent ecosystem, and adverse ecological changes may result by total fire exclusion (e.g., pinyon pine-juniper encroachment of grassy areas or declining grass productivity because of increased sagebrush cover).

The salt desert shrub vegetation type (i.e., Zone 1) is considered a fire-independent ecosystem that usually maintains vigor and composition without fire.

STANDARD OPERATING PROCEDURES

The following standard operating procedures will be applied to this plan.

Environmental Review and Management

In compliance with NEPA and CEQ regulations, BLM will prepare site-specific environmental reviews before actions proposed in this RMP/EIS are implemented, or prior to approval of any project authorized on the public lands. The environmental reviews provide site-specific assessments of the impacts from implementing these actions. As appropriate, these reviews are documented in Categorical Exclusion Reviews, Administrative Determinations, Environmental Assessments and Decision Records, or Environmental Impact Statements and Records of Decision. In addition, the environmental review identifies mitigating measures necessary to reduce adverse impacts of implementing a project or proposed action.

All future authorizations will be in conformance with the RMP. Existing authorizations will be brought into conformance when they are renewed.

Seasonal restrictions on activities which are included in this RMP to prevent disturbing of wildlife will apply to the following authorizations: fluid mineral leasing, nonenergy mineral leasing, mineral material sales, geophysical prospecting, right-of-way construction, off-highway vehicle events, construction of range improvements, activities authorized under the Recreation and Public Purposes Act (R&PP Act), and vegetation sales. In general, maintenance of rights-of-way, range improvement projects, and other facilities will not be restricted. Locatable mineral exploration and development activities will be encouraged to abide by seasonal restrictions but cannot be required to do so.

Determinations that state: "No land uses will be authorized which are incompatible with an area's values" will include such activities as rights-of-way grants, activities authorized under the Recreation and Public Purposes Act, off-highway vehicle events, vegetation sales, range improvement projects, nonenergy mineral leasing, mineral material sales, and geophysical prospecting, except where compatible with, or of benefit to, the resources being protected. Rights-of-way and other discretionary lands actions will be granted in avoidance areas only if no feasible alternative routes are available. Any such grants, leases, or permits will include appropriate stipulations to protect the area's special values. This will not affect maintenance of existing projects or rights-of-way. Livestock grazing will continue to be authorized unless specifically excluded.

For purposes of range management, the Rangeland Program Summary (RPS) will describe the allotment-specific objectives and management actions planned for livestock, wild horses and burros, and wildlife. It will also discuss the monitoring and range improvement projects needed to meet these allotment objectives. Updates of the RPS will explain and update monitoring efforts and results. The RPS will be issued subsequent to the Record of Decision.

Air Resources

Air quality is protected by the establishment of mitigation measures designed to prevent deterioration of air quality prior to authorizing actions. This ensures meeting State goals for air quality and limits allowable emissions from existing and new point or nonpoint sources. Common mitigation measures include watering roads and disturbed areas, the use of scrubbers/sprays, covered storage areas, and other measures to reduce emissions and pollutant concentrations to meet or exceed the standards of the Nevada Division of Environmental Protection.

Soil and Water Resources

Prior to authorizing land-use actions, and also during the allotment monitoring and evaluation process, soil and water resources will be protected by the establishment of mitigation measures designed to maintain or improve soil productivity, and to prevent or minimize soil erosion and floodplain sediment damage. To meet administrative needs the BLM will acquire appropriate water rights by applying for available water rights according to Nevada water law, or by assertion of a public water reserve.

Best Management Practices and appropriate mitigation will be identified during project-level environmental review and applied during project implementation for any ground-disturbing activity that may reduce soil productivity or cause surface erosion.

Visual Resource Management

Visual Resource Management (VRM) classes are delineated in the RMP based on an inventory conducted in accordance with BLM visual management procedures (Manual 8400). The individual VRM classes provide management objectives to be implemented as a part of all activities authorized in the *Tonopah RMP*. The overall goal is to protect or enhance the visual and natural aspect and attributes of the public lands while minimizing the impacts of authorized activities.

Visual resources will continue to be evaluated, using the Contrast Rating process, as a part of activity and project planning. These evaluations will consider the significance of the proposed project and the visual sensitivity of the affected area. Stipulations will be developed and attached to project authorizations to maintain designated VRM classes. Stipulations may include requirements to locate activity sites behind topographic features to hide them from view, modify access routes, color buildings and equipment to blend in with their surroundings, develop projects in phases, etc. If VRM class objectives cannot be met, the impacts to visual resources will be detailed in the project-level environmental analysis and used by the Authorized Officer as a factor in the decision to authorize or deny a proposed action.

To comply with BLM policy for Wilderness Study Areas (WSAs), as stated in BLM Manual H-8550-1, *Interim Management Policy for Public Lands Under Wilderness Review* (1995), WSAs will be managed as interim VRM Class II areas until Congress makes final wilderness decisions for Nevada BLM WSAs. This will comply with the policy to manage WSAs to avoid impairment of existing wilderness values. As of March 30, 1989, limitations were placed on the authorization of activities which cause surface disturbance that require reclamation to restore an area to a preproject condition. Following Congress' final wilderness decision, designated wilderness areas will be managed as VRM Class I areas. Lands not designated as wilderness will be managed according to the VRM classes designated in the RMP/ROD decisions.

Fish and Wildlife

Fish and wildlife habitat will continue to be evaluated as part of project-level planning. Such evaluation will consider the significance of the proposed project and the sensitivity of fish and wildlife habitat in the affected area. Stipulations will be attached as appropriate to assure compatibility of projects with management objectives for fish and wildlife habitat. Habitat improvement projects will be implemented where necessary to stabilize or improve unsatisfactory or declining wildlife habitat condition. Such projects will be identified through habitat management plans or other activity plans.

Sufficient forage and cover will be provided for wildlife. Forage and cover requirements will be incorporated into allotment management plans or their functional equivalent and will apply to specific areas of primary wildlife use.

Range improvements generally will be designed to achieve both wildlife and range objectives. Existing fences will be modified and new fences built so as to allow wildlife passage. Water troughs will be constructed to not exclude wildlife and bird ladders will be installed. Proposed projects are listed in Appendix 4.

Guzzlers constructed for wildlife will be designed for protection from domestic livestock and wild horses and burros.

In accordance with BLM guidelines for domestic sheep management in bighorn sheep habitat, no domestic sheep grazing will be authorized within nine miles of bighorn sheep habitat (see Maps 10 and 13).

Habitats for chukar and other upland game will be maintained and expanded through development of wildlife waters. Generally, no land disposal will be allowed within two miles of sage grouse nesting areas.

Special Status Species

The Endangered Species Act (ESA) of 1973, as amended, declares it the policy of Congress that all Federal Divisions and agencies will conserve endangered species and threatened species and utilize their authorities in furtherance of the purposes of the Endangered Species Act. In accordance with section 7 of the ESA, consultation with the U.S. Fish and Wildlife Service will be conducted on all Federal actions involving threatened or endangered species.

It is BLM policy to carry out the management of Nevada BLM Sensitive Species consistent with multiple-use for conservation of these species and their habitats and ensure that actions authorized or funded do not contribute to the need to list any of these species as threatened or endangered. In order to prevent listing of Nevada BLM Sensitive Species, BLM may enter into Conservation Agreements or Species Management Plans with the U.S. Fish and Wildlife Service.

A desert tortoise inventory may be required prior to any surface-disturbing activity, including plans of operations for locatable minerals, mineral leasing, off-highway vehicle events, rights-of-way, etc., on 70,600 acres of Non-Intensive Category III desert tortoise habitat.

In accordance with the Biological Opinion on livestock grazing in desert tortoise habitat, the following stipulation has been placed in affected grazing licenses: "Within Non-Intensive Category III desert tortoise habitat, livestock use may occur from March 1 to October 14, as long as forage utilization does not exceed 40 percent on key perennial grasses, forbs and shrubs. Between October 15 and February 28, forage utilization shall not exceed 50 percent on key perennial grasses and 45 percent on key shrubs and perennial forbs."

Forestry and Vegetative Products

The areas available for woodland harvest will be subject to the specific restrictions and withdrawals required by this RMP.

Permits will not be issued for the harvest of broadleaf trees, dead or green.

Pinyon nut gathering will be authorized on an individual basis, including within Wilderness Study Areas released by Congress for multiple-use purposes. Personal consumption of up to 25 pounds per year is allowed without permit.

Salvage of vegetative products may be authorized on areas subject to ground-disturbing activities.

Livestock Grazing Management

Resource improvement planning will be in accordance with the procedures outlined in BLM Handbook H-1741-1, *Renewable Resource Improvement and Treatment Guidelines and Procedures*.

The grazing management program assigns priorities to management efforts using a selective management approach. Under this approach grazing allotments are categorized into "I," "M," and "C" management categories. The objectives for these categories are to: 1) *maintain* (M) the current satisfactory conditions; 2) *improve* (I) the current unsatisfactory conditions; or 3) manage *custodially* (C) while protecting existing resource values. Management priority will be given first to "I" allotments, second to "M" allotments, and third to "C" allotments.

Range improvement projects will be addressed in environmental documents and will be constructed in accordance with BLM Manual 9113. Existing access or temporary roads will be used as much as possible. Temporary roads will be rehabilitated after use is completed.

The clearing of vegetation from project sites will be restricted to the minimum amount necessary to properly and safely complete the project.

All disturbed areas will be rehabilitated, where such action is necessary and/or practical, to replace ground cover and prevent erosion. Fences used to control cattle movement in areas inhabited by resident and migratory populations of deer, horses, and/or antelope will be 42 inches in height. Fences in these areas will consist of three barbed wires and a smooth bottom wire. The spacing of the wires starting from the ground will be 16 inches, 22 inches, 30 inches and 42 inches. Line posts shall be spaced at a distance of 16.5 feet between each post. Fences in bighorn sheep habitat will be a three-strand fence with spacing 20, 35, and 39 inches from the ground with a smooth bottom wire. Special design standards will be in accordance with the *BLM Handbook H-1741-1*. All fences will be designed to assure a minimum of impacts to wildlife, wild horses/burros, recreation, and visual resources.

Developed spring sources may be fenced and water provided for livestock and/or wild horses/burros away from the source. Water will be left at the spring source for wildlife use as required by Nevada Revised Statute 533.367, which states in part that "Before a person may obtain a right to the use of water from a spring or water which has seeped to the surface of the ground, he must ensure that ~~wildlife which customarily uses the water will have access to it~~".

Maintenance of livestock management structures will be accomplished by the livestock operator through cooperative agreements and range improvement permits as specified in the BLM's 1982 *Rangeland Improvement Policy* (USDI, BLM, Oct. 1982).

Alteration of sagebrush areas either through application of herbicides, prescribed burning, or by mechanical means will be in accordance with procedures specified in the Western States' Sage Grouse Guidelines and the Memorandum of Understanding between the Nevada Division of Wildlife and the Nevada BLM. All vegetation treatment projects will be coordinated with the Nevada Division of Wildlife at least one year in advance of implementation of the project.

Application of herbicides on proposed treatment areas to reduce sagebrush and other plant species will be in accordance with procedures established in BLM Manual 9222 to prevent impairment of nontarget species.

Vegetative manipulation that will alter the potential natural plant composition will not be allowed in riparian areas. This includes the introduction of nonnative species.

Wild Horse And Burro Management

It is the intent of the BLM to manage wild horses and/or burros and their habitat within areas occupied in 1971. Management is to be accomplished in a manner designed to achieve a thriving natural ecological balance and multiple-use relationship with other resource users. The suitability of some areas to support wild horses and/or burros will be reassessed as appropriate in light of new information from monitoring and emergency gathers.

Management of the wild horses and/or burros will also be guided by Herd Management Area Plans (HMAPs) or their functional equivalent, when appropriate. The plans will be developed through consultation and coordination with interested parties and will be coordinated with livestock, wildlife, and other resource plans. The management plans may include, but not be limited to, discussions of seral stages, range trends, habitat requirements, dietary needs, water requirements, and wild horse and/or burro reproductive capabilities.

Cultural Resources

The National Historic Preservation Act of 1966, as amended; the Archaeological and Historic Preservation Act of 1974; the Archaeological Resources Protection Act of 1979; the American Indian Religious Freedom Act of 1978; the Native American Graves Protection and Repatriation Act of 1990; FLPMA; and Executive Order 11593 provide for the protection and management of cultural resources. These laws are implemented through the following Federal Regulations: 36 CFR 60, 36 CFR 800, 43 CFR 7, and 43 CFR 8365.1-5, (a)(1).

The BLM is required to identify, evaluate, and protect cultural resources on public lands under its administration and to ensure consideration of cultural resources prior to initiation of proposed BLM-authorized activities. If an area will be in any way affected by those activities, a cultural resources inventory will be conducted. In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, eligibility determinations for listing on the National Register of Historic Places are made in consultation with the Nevada State Historic Preservation Office. A determination of effects to eligible properties is also made in consultation with the Nevada State Historic Preservation Office.

Avoidance of cultural properties is the preferred mitigation. However, avoidance is inappropriate if 1) the project will create ongoing activity in the area, or 2) the project will greatly increase access to the area. Either of these conditions could lead to increased vandalism and/or accidental damage. Significant cultural properties to be protected through avoidance will be marked in the field and monitored on a periodic basis.

If eligible properties cannot be avoided, appropriate mitigating measures will be developed in consultation with the Nevada State Historic Preservation Office and the President's Advisory Council on Historic Preservation. No action will be authorized until these agencies are consulted.

Cultural properties without National Register eligibility determinations will be treated as eligible properties until such determinations can be made.

Federal agencies are required to consider the views of Native Americans when a proposed undertaking may be in conflict with traditional lifeways or religious values. The American Indian Religious Freedom Act requires consultation with Native American religious and secular leaders to identify geographic areas which may be associated with traditional lifeways and religious practices.

Lands

Land tenure adjustments are discretionary. No lands will be disposed of unless they are identified in the RMP.

Public lands identified for disposal may be made available for sale, exchange, agricultural entry, lease, or patent for recreation or public purposes. Some lands identified for disposal may not be sold due to lack of interest, and some may be retained in Federal ownership as a result of site-specific application of the land-ownership adjustment criteria.

Exchanges are authorized under Section 206 of the Federal Land Policy and Management Act (FLPMA) of 1976. Exchanges are the preferred method of acquisition when other methods, such as conservation easements or management agreements, will not protect special value areas or resources. Exchanges must be in the public interest. The selected public land must be identified in an approved land-use plan for disposal, and the offered private land may be identified in an approved land-use plan for acquisition.

There are three authorities for the disposal of public land specifically for agricultural purposes: the Desert Land Act, the Carey Act, and the General Allotment Act. Disposal of public land for agricultural purposes must meet the requirements of one of the three acts listed above and have a supporting permanent water source permitted by the Nevada State Engineer.

In order for public land to be sold, it must meet one of the following criteria set forth in Section 203(a) of the *Federal Land Policy and Management Act of 1976*:

- the land is difficult or uneconomic to manage as a part of the public lands, and it is not suitable for management by another Federal Department or agency.
- the land was acquired for a specific purpose: and it is no longer required for that, or any other, Federal purpose; or
- disposal of the land will serve important public objectives that can be achieved prudently or feasibly only if the land is removed from public ownership; and these objectives outweigh other public objectives or values that will be served by maintaining the land in Federal ownership.

Site-specific decisions regarding land ownership adjustments within the Tonopah Planning Area are to be based on whether the lands are needed for BLM programs, or whether or not they are considered more valuable for other purposes. The following criteria are applied to site-specific determinations for lands that are within areas identified for disposal or acquisition:

- A. Public resource values, including, but not limited to:
 - threatened, endangered, or sensitive species habitat
 - sites or places listed or eligible for inclusion on the National Register of Historic Places
 - mineral potential
 - wilderness areas and areas being studied for wilderness
 - riparian areas, including springs and seeps
 - nesting/breeding habitat for game birds/animals

- big game seasonal habitat
- recreation potential
- visual resources
- other designations authorized by law

- B. Manageability
- C. Suitability for development
- D. Accessibility of the land for public use
- E. Encumbrances
- F. Social and economic impacts of land tenure adjustments
- G. Consistency with other agency/governmental entity plans and policies.
- H. Sites that contain hazardous materials.

These land-ownership adjustment criteria are considered in environmental analyses and decision prepared for specific adjustment proposals.

In addition, no disposals are allowed within two miles of sage grouse strutting grounds, and no disposals for agricultural purposes are allowed on lands with agricultural soil ratings of Class IV or higher, or with soils having a high susceptibility to erosion. The disposal of land will not be allowed if it would fragment ownership patterns.

Public lands within areas which have not been identified for disposal are retained in Federal ownership and are managed by BLM. Unless these lands are dedicated to a specific use or uses, or are included within avoidance or exclusion areas, they are available for rights-of-way, FLPMA leases, and airport leases. Because color-of-title and mineral entry patents are nondiscretionary actions, all public lands meeting specific regulatory criteria may be patented by these methods.

Land use permits and leases are granted under the authority of Section 302(b) of the Federal Land Policy and Management Act of 1976. Permits are issued for short-term, low-impact uses of the public lands. Leases are a long-term management tool used particularly where future disposal or dedication to another particular land use is contemplated. In general, all lands within the Tonopah Planning Area which have not been dedicated to a specific use or uses are open to consideration for land-use permits and nonmajor leases. Permit and lease applications are evaluated on an individual basis. The same public resource values considered prior to disposal are considered prior to the issuance of a permit or lease. Major leases must be identified in an approved land-use plan.

It is BLM policy to identify, abate, and prevent unauthorized use of the public lands. Existing unauthorized uses of the public lands are resolved through termination, short-term permit, lease, sale, exchange, or by other appropriate means.

Since the passage of the Federal Land Policy and Management Act in 1976, the BLM has been in the process of reviewing all withdrawals and classifications of public lands. All new proposed withdrawals must be identified in an approved land-use plan.

Unless the land has been dedicated to a specific use or uses, public land within the Tonopah Planning Area is available for consideration for linear rights-of-way for access, and for utility transportation and distribution purposes. Such land is also available for areal rights-of-way purposes.

Prior to issuance of a right-of-way authorization, a site-specific environmental analysis is performed which considers, among other things, habitats of threatened, endangered, or Nevada BLM Sensitive Species; sites or places listed or eligible for inclusion on the National Register of Historic Places; wilderness areas and areas being studied for wilderness; riparian areas; nesting/breeding habitat for animals; big game seasonal habitat; visual resources; and other considerations mandated by law.

Designated right-of-way corridors within the Tonopah Planning Area are three miles wide except where topographic constraints exist. Grants for rights-of-way are still required for facilities placed within designated corridors. Designation of a corridor does not necessarily mean that future rights-of-way are restricted to corridors, nor does it mean that there is a commitment by the BLM to approve all right-of-way applications within corridors. Proposed disposals of land within corridors are analyzed to determine the impacts that these proposed disposals might have on future right-of-way activities.

Recreation

A broad range of outdoor recreation opportunities will continue to be provided on all segments of the public land, subject to the demand for such opportunities and the need to protect other resources. Special Recreation Management Areas, areas of concentrated use, and existing facilities will receive first priority for operation and maintenance funds. Investment of public funds for new recreation developments will be permitted only on land identified to remain in public ownership.

Recreation resources will continue to be evaluated on an individual basis as part of activity and project-level planning. Such evaluations will consider the sensitivity of, and the impacts on, recreation resources in the affected area. Stipulations will be attached as appropriate to assure the compatibility of projects with recreation management objectives.

Special recreation use permits will be authorized on an individual case basis.

Decisions regarding the designation of areas open, limited (restricted), and closed to motorized vehicle access have been made in the RMP. An exception to designations in the RMP is emergency actions which may be necessary due to:

1. The need to minimize damage to soil, watershed, vegetation or other resource values.
2. The need to minimize harassment of wildlife or the degradation of wildlife habitat, especially habitat for threatened, endangered, or Nevada BLM sensitive species.
3. The need to promote user safety and protect the visiting public from hazardous situations.

Areas which are not designated as limited or closed will remain open for motorized vehicle use.

Existing mines will be closed to off-highway vehicle use by the public. The areas will remain closed until they have been reclaimed and the reclamation bond has been released.

Public land within areas closed to motorized vehicle use will be closed year-long to all forms of motorized vehicle use except for emergency or authorized vehicles.

Vehicle use in Wilderness Study Areas (WSAs) is currently managed as limited to existing (1980 inventory) roads, trails and ways. This is a temporary designation which overrides the decisions in the RMP, pending final decisions by Congress with regard to WSAs. Following final Congressional action,

those areas designated as wilderness will be closed to motorized vehicle use, subject to valid existing rights and authorized nonconforming uses. Motorized vehicle use on lands which are not designated as wilderness will be managed according to the decisions in this RMP and ROD.

The BLM, Nevada State Office has published a camping stay limit (effective November 5, 1993) for the public lands it manages: "A person or persons may not occupy undeveloped public lands or designated sites or areas for more than fourteen days within a twenty-eight consecutive day interval. Following the fourteen days, the persons and personal property must relocate to a site outside of at least a twenty-five mile radius from the occupied site or non-BLM administered land for a period of fourteen days".

In order to protect resources, or for administrative purposes, an Authorized Officer may, by posting notification, close a given site to occupancy, even if the same person or persons have not occupied the site for fourteen consecutive days."

All BLM lands that are not limited in the RMP are open to all individual, commercial, and competitive outdoor recreation uses. Opportunities for exploring the back-country by vehicle, hunting, camping, sightseeing, and hiking are encouraged. There are no nationally significant river segments, as defined in the National Wild and Scenic Rivers Act of 1964, in the Tonopah Planning Area.

Areas of Critical Environmental Concern

Decisions to designate ACECs will be prepared during the next two years as a Plan Amendment to the Tonopah RMP. A plan of operations will be required for any proposed mechanized disturbance in a designated ACEC during the search for, or the exploitation of, locatable minerals. No mineral material sales will be allowed within any ACEC unless specified otherwise in the Plan Amendment.

Wilderness

BLM policy requires that all Wilderness Study Areas (WSAs) be managed in accordance with the provisions of Section 603 (c) of the Federal Land Policy and Management Act and the BLM *Interim Management Policy for Lands Under Wilderness Review* (IMP) so as not to impair their suitability for preservation as wilderness. The IMP provides management policies for WSAs between the time of WSA designation (11/15/80) and final decisions by Congress regarding these areas. The IMP contains specific management direction for activities in WSAs which may occur or be authorized.

The specific management determinations identified in the RMP are those that may take place if the WSAs are released from wilderness consideration by Congress. Some of the determinations are compatible with the IMP and can be implemented at any time, whereas others must await Congress' final determinations. Also some RMP determinations may not comply with the IMP's nonimpairment requirements. These decisions may not be implemented until after Congress' final decision releasing the nonwilderness lands from the requirements and restrictions included in the IMP Policy.

Should Congress designate wilderness areas, the RMP will be maintained to include these new designations, and to modify determinations which conflict with wilderness management objectives. Management of areas designated as wilderness will be guided by the requirements of the Wilderness Act of 1964, specific enabling legislation, and the BLM's wilderness management procedures. While site-specific management objectives for wilderness areas will be included in future wilderness management plans, certain actions are nondiscretionary, including closure to motorized vehicle use (except for valid existing rights and approved nonconforming uses by permit) and segregation from mineral entry and fluid-mineral leasing.

Fluid Minerals

Oil and gas leases and geothermal leases grant the right to the operator to explore for, and to produce oil and gas, and geothermal energy. Leases are subject to certain terms and conditions which provide for compliance with applicable laws, ordinances, and regulations pertaining to fire, sanitation, conservation, water pollution, fish and wildlife, safety, protection of property, and reclamation.

In addition to the terms and conditions of the leases, stipulations may be applied to site-specific applications to provide for stringent environmental protection of conflicting resources. These stipulations are developed by a multidisciplinary team as part of the environmental analysis process.

Since the passage of the Federal Oil and Gas Leasing Reform Act of 1987, all Wilderness Study Areas (WSAs) have been closed to mineral leasing.

Geophysical exploration for oil and gas, and for geothermal resources may take place before or after the leasing of the lands. These actions will be reviewed by a multidisciplinary team in the Tonopah Planning Area to identify and mitigate resource-related conflicts.

BLM actively encourages and facilitates the private development of public land mineral resources in a manner that satisfies national and local needs, and provides for economically and environmentally sound exploration, extraction, and reclamation practices.

Land-use plans and multiple-use management decisions of the BLM will recognize that mineral exploration and development can occur concurrently or sequentially with relation to other resource uses.

Consultation with the U.S. Fish and Wildlife Service is required per section 7 of the Endangered Species Act prior to approval of an Application for Permit to Drill (APD) or other lease operations, if a proposed listed or listed threatened or endangered species, or its critical habitat, is likely to be affected by project activities. If there is deemed to be any adverse impact the proposal would be modified or the request denied.

Actions which would adversely impact a Nevada BLM sensitive plant or animal species will be modified in order to prevent possible future listing of these species as threatened or endangered.

Locatable Minerals

BLM provides for mineral entry, exploration, location, and operations pursuant to the mining laws in a manner that 1) will not unduly hinder the mineral activities, and 2) assures that these activities are conducted in a manner which will prevent undue or unnecessary degradation of the public land.

Notification to the Authorized Officer is required on all operations in project areas in which surface disturbance will be five acres or less.

A Plan of Operations and a Reclamation Plan are required in situations in which there will be more than five acres of cumulative unreclaimed surface disturbance in a project area. These two plans are also required for any mining activity on special category lands, such as ACECs and areas closed to off-highway vehicles. Appropriate off-site mitigation may be negotiated during a plan of operations review for locatable mineral actions when an irretrievable loss of important habitat is unavoidable, or a significant long-term adverse impact will occur. The preferred alternatives to off-site mitigation are avoidance of critical and crucial habitat and reclamation of disturbed habitat to approximate pre-disturbance productivity.

The Authorized Officer may require modifications of Plans of Operations to meet the requirements of the regulations and to prevent undue or unnecessary degradation of public land.

Plans of Operations cannot be approved until Section 106 of the National Historic Preservation Act, and Section 7 of the Endangered Species Act, and the National Environmental Policy Act have been complied with.

Reclamation of disturbed areas to meet BLM standards is required for all levels of activity: Casual Use, Notice, or Plan of Operations.

Additional regulatory requirements will be enforced in WSAs through regulations (43 CFR 3802) and through the Interim Management Policy (IMP) for WSAs.

All operations shall comply with Federal and State laws, including those relating to air quality, water quality, solid wastes, fisheries, wildlife and plant habitat, and archaeological and paleontological resources.

The BLM will conduct validity examinations, reviewing the validity of mining claims to determine if a discovery has been made, under the following conditions:

- 1) Where a mineral patent application has been filed and a field examination is required to verify the validity of the claim(s).
- 2) Where there is a conflict with a disposal application, and it is deemed in the public interest to conduct a validity examination; or where the statute authorizing the disposal requires the removal of mining claims that are not valid. If the validity examination made in the latter case were to show that the mining claim was valid, the disposal action could not be completed.
- 3) Where the land is needed for a Federal program.
- 4) When a mining claim is occupied under the guise of the mining law and flagrant or questionable misuse of the land is observed, the BLM will undertake a review of the occupancy based on current regulations. If it is found, in fact, that such use is not necessary for, and reasonably incident to, mineral development, BLM will act to terminate the use and seek compensation for damages. Validity of the claim would not be relevant in this case.

Withdrawals from mineral entry will be enacted only in cases in which there are significant resource values that cannot be adequately protected under the regulations concerning surface management. Such withdrawn acreage may include areas recommended for wilderness designation, sensitive species habitat, riparian areas, areas possessing important historical and cultural resources, and areas set aside for recreational development.

Bonding will be required for all notices and plans of operations to ensure that satisfactory reclamation takes place. All operations using cyanide will follow the requirements in BLM's Nevada Cyanide Management Plan.

The BLM will coordinate each mine plan and mine closure in conjunction and consultation with the Bureau of Reclamation and Regulation of the Nevada Division of Environmental Protection. This coordination ensures that the State of Nevada reclamation laws are implemented on Federal and private lands, and that all necessary State permits will be issued and followed.

Mineral Materials

Mineral material disposal will not occur in Wilderness Study Areas.

All mineral material disposals are discretionary. Appropriate terms and conditions are applied to ensure that the permittee will comply with all applicable laws and environmental safeguards.

Disposal to State, county, and municipal governments will generally be processed through the issuance of free-use permits (FUPs).

In all mineral material disposals the BLM will strive, wherever possible, to use existing mineral material pits.

Disposal of such common-variety mineral materials as sand and gravel may not be made from mining claims, unless the date of the mineral materials contract or permit precedes the date of the location of the claim. This policy applies to all types of mining claims including placer, lode, millsite, and tunnel site claims. Mining claimants may not sell mineral materials which are on their unpatented mining claims.

Nonenergy Leasable Minerals

An environmental analysis will be conducted on the exploration phase of each prospecting permit and on any production activities associated with a lease. The environmental analyses are prepared by a multidisciplinary team and are used to determine any special stipulations necessary for the protection of surface resources.

Fire Management

The fire management program is guided by the approved Battle Mountain District Fire Management Activity Plan and this RMP.

Every wildfire within the Tonopah Planning Area will have an appropriate action taken. The action will be planned and executed in such a way as to minimize the loss of resources and the costs of suppression. Such actions must also be consistent with resource management objectives.

There will be no use of fire retardant in riparian areas, WSAs, sensitive visual resource management areas, and structure archaeology sites, unless such use is authorized by the Authorized Officer.

All wildfires, after they are declared out, will be evaluated by a rehabilitation team to determine the actual needs related to the rehabilitation. Corrective measures will be taken to prevent erosion and future resource degradation when it is feasible to rehabilitate areas damaged by actual suppression action. The rehabilitation team will also determine if any fire rehabilitation, including protection from grazing, is needed to revegetate the burned area, and to protect the site from erosion and invasion by undesirable plant species. Emergency fire rehabilitation will follow procedures outlined in *BLM Handbook H-1742-1* and the Battle Mountain District approved Normal Fire Rehabilitation Plan.

When identified as the least costly and/or most effective method, prescribed fire techniques will be used as a resource tool to meet vegetative objectives as stated in this RMP. Prescribed fire can be used to improve wildlife habitat, watershed improvement and other types of vegetative manipulation to meet vegetative objectives. In addition it can be used solely, or in combination with other fuel/vegetative manipulation techniques. When fire is used as a management tool, an approved prescribed burn plan and wildfire prescription must be prepared in advance of planned or unplanned ignition in accordance with *BLM Manual 9214*.

Integrated Pest Management

It is the policy of the BLM that all alternatives available through integrated pest management will be explored before any pest-control program decision is implemented. This includes all pest-control programs done under BLM proposals, cooperative projects, or on lands under permit or lease. Integrated pest-control methods include, but are not limited to, biological, cultural, and chemical methods. In choosing methods, due consideration will be given to economics, efficacy, and the environment. All integrated pest-management activities will follow policies established in (a) BLM Manual 9011, Chemical Pest Control Sections .06B through .12D; (b) BLM Manual 9015, Integrated Weed Management Sections .2 through .4, .8 through .83, and Appendix 1; (c) BLM Handbook H-9011-1, Chemical Pest Control Sections I-B 1-3; and (d) other sources as appropriate.

Hazardous Materials

The BLM will not authorize the disposal of hazardous materials on public lands. When hazardous materials are located on public lands, the following sequence of actions will occur: reporting, necessary site security, coordination of procedural cleanup, and monitoring results of cleanup. Actions taken by the BLM can also include prosecution of those responsible for illegal dumping.

The BLM ensures that the initiators of actions which use hazardous materials on public land have the necessary permits from the State of Nevada and, if necessary, the Environmental Protection Agency, which are designed to protect the environment. These permits become conditions of approval by the BLM for proposed actions on Federal lands.

PLAN IMPLEMENTATION, MITIGATION AND MONITORING, EVALUATION, MAINTENANCE, AND AMENDMENT

Implementation of some determinations will begin immediately upon approval of this RMP. An Implementation Schedule will be developed within a reasonable timeframe (90 days) for the remaining determinations. This schedule will establish priorities and give a basis for short-term and long-term budget requests.

The Tonopah RMP is intended to be a dynamic document which must be routinely monitored and maintained, and periodically amended, to remain viable. The intent of monitoring is to document the effect on the environment from implementing the RMP to ensure that management actions are meeting their intended purpose. The environmental effect of any future changes or additions to the RMP will be formally monitored as well.

The Standard Operating Procedures section of this document explains most of the monitoring procedures and mitigation measures in common use. Progress in implementing the RMP will be monitored yearly through an Implementation Plan, and the RMP itself will be re-evaluated every five years to address how well it continues to serve as a guide to effective land management. The evaluation process serves to judge the success of RMP maintenance (described below) in keeping the plan current, and to assess the need for plan amendments. Additional monitoring and mitigation measures will be enacted as needed in response to environmental analyses for specific projects, and will be identified in such documents as environmental impact statements for proposed mining ventures, habitat management plans for wildlife management, allotment management plans for livestock grazing, etc.

Routine RMP maintenance consists of making minor changes in data, including posting of new data and information, and posting of corrections where errors have been found. In general, plan maintenance does not change the scope or effect of any of the RMP determinations, but by keeping the plan current it extends its useful life.

A plan amendment, in contrast to plan maintenance, changes a part of the existing RMP or adds to it, or allows new proposals to be considered and incorporated. The need for a plan amendment is identified through plan implementation and through monitoring and evaluation findings, or in response to internally or externally initiated proposals which do not conform to the RMP, but which do warrant consideration. Other events which could require a plan amendment include 1) changes in BLM policy, such as statutory requirements; 2) new data or information becomes available; 3) changes in management emphasis; and 4) court orders. Plan amendments adapt the RMP to new and changing values, thereby making the plan more useful and extending its life.

CONSISTENCY

Under Section 202 of the Federal Land Policy and Management Act of 1976 (FLPMA), all BLM plans must be consistent, insofar as possible, with resource-related plans officially approved or adopted by State and local agencies. The Division of State Lands was directed by the 1983 State Legislature (Senate Bill 40) to "prepare, in cooperation with appropriate State and local agencies and local governments throughout the State, plans or policy statements concerning the use of lands in Nevada which are under Federal management." The purpose of the plans is to provide public land-management policies developed by State and local agencies to the various Federal agencies for their use in managing public lands in Nevada. The Esmeralda County Board of Commissioners on April 16, 1985, adopted the Esmeralda County Policy Plan for Public Lands. The Board of Commissioners of Nye County on April 3, 1985, unanimously approved the Nye County Policy Plan for Public Lands. The relationship between the RMP and the Esmeralda County Policy for Public Lands is discussed in Appendix 12. The relationship between the RMP and the Nye County Policy for Public Lands is discussed in Appendix 13.

In 1994, the Nye County Board of Commissioners approved the Nye County Comprehensive Plan. The stated purpose of the Comprehensive Plan is to serve as a guide to the Nye County Board of Commissioners on all matters of growth and development. The public lands portion of the Comprehensive Plan has not yet been developed. Thus, no meaningful comparison of the RMP and the Comprehensive Plan can be made at this time.

PUBLIC INVOLVEMENT

Scoping

Once the determination was made to prepare a new land-use plan for the Tonopah Planning Area, an involved process of preparatory activities occurred. These activities included assembly of existing resource data; developing a public participation plan, which included how to involve other Federal agencies, State and local governments, interests groups, Indian Tribes, and the general public in the preparation of this RMP; preparation of an analysis of the management situation; a discussion of the existing environment and any related concerns and problems with the management of the natural resources; and assembly of a multidisciplinary team to write the document.

The public participation process began in February, 1990, with the publication of a "Notice of Intent" to prepare a resource management plan for the Tonopah Planning Area in the Federal Register (Vol. 59, No. 29, February 12, 1990). On February 13, 1990, a scoping letter was sent to more than 400 individuals, including State and Federal agencies, units of local government, interest groups, and members of the public. This letter invited comment on planning issues, planning criteria, management, and resource concerns identified by BLM managers and resource specialists. The letter also announced three informal public workshops to be held in March, 1990, in Tonopah, Carson City, and Las Vegas, to receive public input. The public was encouraged to become involved in the planning process, and to submit comments at any time during plan development. Announcement of the public workshops was also made through local newspapers.

The first scoping meeting was held on March 1, 1990, in Tonopah, Nevada; the second on March 6, 1990, in Carson City, Nevada; and the third on March 8, 1990, in Las Vegas, Nevada. BLM personnel assigned to prepare the RMP were present at each meeting to outline the planning process, to explain planning issues and planning criteria, and to discuss the concerns of those in attendance. More than 80 people attended the three meetings. During the scoping period, 74 comment letters were received.

On June 1, 1990, a letter was sent to approximately 190 interested individuals, agencies, and groups who had responded to the scoping letter. The letter summarized the results of the scoping process, identified the final planning criteria to be used in the development of the RMP, and identified the issues to be addressed in the Draft Plan. An update letter was mailed to all interested parties on May 3, 1991 to inform them that work was progressing on development of the alternatives to be considered in the Draft Plan.

Draft RMP/Draft EIS

The Draft Tonopah RMP/EIS was published and made available to the public on June 4, 1993 for a 90-day public comment period which ended on October 1, 1993. Approximately 200 individuals and organizations had expressed an interest in the use and management of public land for this area. All were sent copies of the Draft RMP/EIS. Included in this group were all grazing permittees and lessees within the planning area, Nevada Congressional Delegation, appropriate members of advisory councils and boards, and various libraries.

The Notice of Availability was published in the Federal Register on Thursday, June 24, 1993 (FR Vol. 58, No. 120). Public meetings to obtain public comment were held in Carson City, Nevada on August 17, 1993; in Las Vegas, Nevada on August 19, 1993; in Beatty, Nevada on August 24, 1993; in Goldfield, Nevada on August 25, 1993; and in Tonopah, Nevada on August 26, 1993. There were 13 attendees at the Carson City meeting, nine at the Las Vegas meeting, 12 at the Beatty meeting, 28 at the Goldfield meeting, and 41 at the Tonopah meeting.

Proposed RMP/Final EIS

A total of 93 timely comment letters were received during the 90-day comment period for the Draft Plan. Each letter was reviewed and evaluated for substantive comments which addressed the content of the plan and the analysis of its management actions. Comments from these letters, as well as oral comments made at the public meetings, were used to develop the Proposed Tonopah Resource Management Plan and Final Environmental Impact Statement.

Copies of most of the comment letters were printed in the Proposed RMP, along with a response to each of the substantive issues identified during comment review. To save printing costs, letters over 10 pages in length, and attachments to letters, were not printed in this document. All materials received during the comment period are available for review at the Tonopah Field Station.

Each issue identified for response in the comment letters was assigned a number in the left margin. The response to each issue, with corresponding number, follows in the response section of the same chapter in the Proposed RMP. In addition, eight other letters were received after the close of the comment period. Comments in these letters were duly considered in developing the Proposed RMP; however, they were not reproduced in that document.

On December 9, 1993, a letter was sent to each timely respondent acknowledging receipt of his or her comment letter. This particular letter informed the respondents how their comments would be evaluated and incorporated into the Proposed RMP/Final EIS.

Formal consultation was conducted with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act. The Biological Opinion on Implementation of the Proposed Plan is reproduced in Appendix 15.

The Proposed Plan was made available to the public on October 21, 1994 for review and a 30-day protest period (see Environmental Protection Agency's Federal Register "Notice of Availability" of October 21, 1994). The protest period ended on November 21, 1994, with all protests having to be postmarked by that date. Twenty protests were filed with the BLM Director by that date.

The twenty protest letters were forwarded to the BLM Washington Office (WO) for review of substantive comments and for final WO decisions on revisions to the RMP. Following extensive WO review and consideration, response letters were drafted to each of the protestors. The last of these letters was mailed on April 9, 1997.

As noted previously, the major effect of these protests was to withhold decisions concerning designation of Areas of Critical Environmental Concern. Resolution of this issue will be developed in a Plan Amendment to the RMP. Some of the protest letters also guided efforts to make the RMP Determinations more readily understood, as reflected in the amended wording of some of the Determinations in this Approved RMP.

This RMP and Record of Decision are being distributed to approximately 300 addresses, including Federal, State, and local agencies; various interest groups and organizations; and political entities. Copies of the complete mailing list, including individuals, are on file at the Tonopah Field Station.

Mailing List

The following is a listing of groups that are on the Tonopah Resource Management Plan mailing list. The Draft RMP and the Proposed RMP, as well as this document, were sent to each entity or individual on the list. This mailing list was updated continually throughout the development of this plan.

Congressional Delegations

Honorable Richard H. Bryan
Honorable Harry Reid
Honorable Jim Gibbons
Honorable John E. Ensign

Federal Agencies

Advisory Council on Historic Preservation
Department of Agriculture
 Forest Service
 Soil Conservation Service
Department of Defense
 TFWC/DA Nellis AFB
Department of the Interior
 Bureau of Indian Affairs
 Bureau of Mines
 Fish and Wildlife Service
 Geological Survey
 National Park Service
 Office of Environmental Affairs
Environmental Protection Agency

State Agencies

Nevada Department of Wildlife
Nevada Department of Minerals
Nevada State Clearing House

State Agencies (cont.)

Nevada Commission for the Preservation of
 Wild Horses
Office of the Governor

Local Government

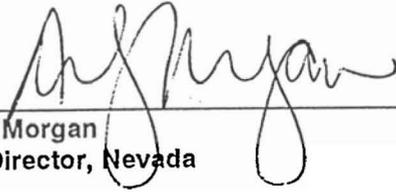
Beatty Town Board
City of Gabbs
Nye County Commissioners
Nye County Planning Department
Esmeralda County Commissioners
Tonopah Town Board

Native American Councils

Las Vegas Colony Council
Lovelock Tribal Council
Reno Sparks Indian Council
Shoshone Paiute Business Council
Summit Lake Paiute Council
Tribal Council of the Te-Moak Western
 Shoshone Indians of Nevada
Washoe Tribal Council
Wells Indian Council
Yerington Tribal Council
Yomba Tribal Council

APPROVAL

The approval of this Record of Decision for the Tonopah Resource Management Plan completes the planning and environmental analysis process for this planning effort. An amendment to this management plan concerning the ACECs nominated during this planning effort will be initiated shortly. It will begin with a "Notice of Intent" published in the Federal Register and a letter being sent to all entities on the mailing list. It is anticipated that this amendment will be completed within a two-year period following its initiation.



A handwritten signature in cursive script, appearing to read "Ann J. Morgan", is written over a horizontal line.

Ann J. Morgan
State Director, Nevada

10-2-97

Date

APPENDIX 3 OFF-HIGHWAY VEHICLE DEFINITIONS

1. "Off-Highway vehicle" - any motorized vehicle capable of, or designed for, travel on or immediately over bare land or other natural terrain, excluding: (1) any military, fire, search and rescue, or law enforcement vehicle while being used for emergency purposes; (2) any vehicle use expressly approved by the Authorized Officer; (3) vehicles in official use; and (4) any combat support vehicle when used in times of national defense emergency.
2. "Official use" - use by an employee, agent or designated representative of the Federal government or one of its contractors, in the course of carrying out duties.
3. "Trail" - an unmaintained way. For example, a jeep 2-track or an ATV/motorcycle track.
4. "Open area" - an area where motorized vehicle use is permitted both on and off-road.
5. "Closed area" - an area where motorized vehicle use is prohibited. Use of vehicles in closed areas may be approved by the Authorized Officer for special purposes or legal requirements.
6. "Off-road" - any motorized vehicle use not on an existing road or trail. This refers to cross-country travel.
7. "Road" - a way that is improved by mechanical means to ensure relatively regular and continuous use by vehicles. A way maintained solely by the passage of vehicles does not constitute a road.
8. "Roadless" - the absence of roads which have been improved and maintained by mechanical means to ensure relatively regular and continuous use.
9. "Improved and maintained" - actions taken physically by man to keep the road open to vehicular traffic. Improved does not necessarily mean formal construction. Maintained does not necessarily mean annual maintenance.
10. "Limited to existing roads and trails" - motorized vehicle use permitted on all roads and trails in the area unless otherwise signed as closed. Motorized vehicle use is not permitted on roads and trails that have been physically closed through reclamation actions. BLM will not prepare an activity plan/map for areas that are limited to existing roads and trails. All authorized public land users who hold a permit or license (i.e. grazing permittees, wood permits, hunting license, right-of-way holders, mining claim, etc.) may drive off-road if required to fulfill requirements of their permit or license. Motorized vehicles must park within 100 yards of an existing road or trail for camping. All off-road vehicle use must be limited to the minimum necessary to accomplish the task and to prevent undue or unnecessary degradation to the area. Organized events, wood cutting and land treatment projects will be handled on a case-by-case basis. Emergency services and/or law enforcement activities are exceptions to these policies.

**APPENDIX 4 (Continued)
PROPOSED RANGE IMPROVEMENT PROJECTS¹**

NAME	ALLOTMENT NUMBER	TYPE OF IMPROVEMENT	UNITS
Monitor	0077	Fence Cattleguard Well Trough Pipeline Vegetation Manipulation	41 miles 7 each 1 each 3 each 3 miles 8,725 acres
Monte Cristo	0104	Well Pipeline Trough	2 each 6 miles 4 each
Montezuma	0094	Well Pipeline Trough Fence	2 each 5 miles 5 each 2 miles
Morey	0083	Fence Cattleguard Spring Development Trough Pipeline	12 miles 3 each 1 each 2 each 2 miles
Nyala	0088	Fence Cattleguard Well Trough Pipeline Earthen Reservoirs	38 miles 5 each 3 each 6 each 9 miles 2 each
Ralston	0076	Fence Cattleguard Well Trough Pipeline	113 miles 10 each 3 each 7 each 17 miles
Razorback	0093	Well	1 each
Red Springs	0091	Pipeline Trough Fence	2.5 miles 1 each 6.5 miles
Reveille	0085	Fence Cattleguard Well Trough Pipeline	140 miles 14 each 2 each 4 each 5 miles
San Antone	0073	Fence Cattleguard Spring Development Trough Pipeline	85 miles 16 each 5 each 12 each 35 miles

APPENDIX 4 (Continued)
PROPOSED RANGE IMPROVEMENT PROJECTS¹

NAME	ALLOTMENT NUMBER	TYPE OF IMPROVEMENT	UNITS
Sand Springs	0086	Fence Cattleguard Well Trough Earthen Reservoir Vegetation Manipulation	63 miles 7 each 2 each 2 each 3 each 10,000 acres
Silver Peak	0097	Pipeline Spring Development Trough Fence	1.25 miles 5 each 5 each 21.5 miles
Smoky	0074	Fence Cattleguard Spring Development Trough Pipeline	52 miles 2 each 1 each 1 each 3 miles
Stone Cabin ✓	0082	Fence Cattleguard Well Spring Development Trough Pipeline Vegetation Manipulation	87 miles 19 each 2 each 4 each 11 each 13 miles 14,080 acres
White Wolf	0092	Well	1 each

¹ Includes projects for livestock, wild horses/burros, wildlife, and watershed proposed in the Tonopah Grazing EIS and Esmeralda/Southern Nye RMP.

APPENDIX 5
CURRENT FORAGE ALLOCATIONS-TONOPAH (EAST)

ALLOTMENT	ALLOTMENT ACRES	CURRENT STOCKING LEVELS FOR LIVESTOCK ⁶	INITIAL HERD SIZES FOR WILD HORSES AND BURROS
Blue Eagle	45,499	2,024 AUMs	0 AUMs
Butterfield	122,080	4,779 AUMs	0 AUMs
Crater-Black Rock	97,859	4,637 AUMs ¹	0 AUMs
Currant Ranch	501	282 AUMs	0 AUMs
Forest Moon	297	253 AUMs	0 AUMs
Francisco	16,896	1,206 AUMs ¹	0 AUMs
Hot Creek	154,483	6,363 AUMs ²	492 AUMs for 41 horses ²
Hunts Canyon	93,558	2,237 AUMs ¹	360 AUMs for 30 horses
Ione	189,099	10,476 AUMs ¹	0 AUMs
Monitor	92,463	3,862 AUMs ¹	0 AUMs
Morey	72,806	1,304 AUMs ²	0 AUMs
Nyala	321,274	16,157 AUMs ¹	0 AUMs
Ralston	368,682	14,695 AUMs ¹	120 AUMs for 10 horses ⁵
Reveille	657,520	25,730 AUMs ¹	1,980 AUMs for 145 to 165 horses ³
San Antone	442,555	13,580 AUMs ¹	0 AUMs
Sand Springs	203,868	5,727 AUMs ¹	588 AUMs for 49 horses ⁴
Smoky	125,247	5,523 AUMs ¹	0 AUMs
Stone Cabin	389,499	13,963 AUMs ¹	4,368 AUMs for 364 horses ⁴

APPENDIX 5 (Continued)
CURRENT FORAGE ALLOCATIONS-TONOPAH (EAST)

ALLOTMENT	ALLOTMENT ACRES	CURRENT STOCKING LEVELS FOR LIVESTOCK ⁶	INITIAL HERD SIZES FOR WILD HORSES AND BURROS
Wagon Johnnie	28,157	1,219 AUMs ²	468 AUMs for 39 horses ²
Willow Creek	12,691	338 AUMs	54 AUMs for 6 horses for 9 months

¹ From the 12/88 Rangeland Program Summary.

² The AUMs shown here have been adjusted as a result of the "National Forest and Public Lands of Nevada Enhancement Act of 1988." The information shown is for the portion of the allotments remaining in BLM control. The Act transferred administration of approximately 26.9% of the lands in the Morey Allotment, 13.6% of the lands in the Hot Creek Allotment, and 72.1% of the lands in the Wagon Johnnie Allotment to the U.S. Forest Service.

³ Directed by 1987 Court Decision (Civil R-85-535 BRT) Fallini vs. Hodel.

The number of horses allowed within these HMA's was established by the consent decision issued by Administrative Law Judge, David Torbett, on May 11, 1992.

⁴ Wild horses drift onto public lands from the Monitor Wild Horse Territory, which is administered by the U.S. Forest Service.

⁶ The AUMs authorized for stocking levels may be adjusted through data gathered in accordance with monitoring methods described in the Nevada Rangeland Monitoring Handbook, dated September 1994.

APPENDIX 9

EXISTING CLASSIFICATIONS AND WITHDRAWALS

I. CLASSIFICATIONS

TYPE	NUMBER	ACRES
Small Tract	2	8.92
Classification and Multiple Use	4	1,984.00
Recreation and Public Purposes	19	1,534.09
Desert Land Entry	18	5,725.89
Carey Act	4	3,316.42
Airport Leases	3	126.20
Total		12,695.52

II. WITHDRAWALS

TYPE ¹	NUMBER	ACRES
Air Force	2	619.32
BLM-Power Site Reserve	1	17.00
BLM-Protective (Railroad Valley)	1	14,710.33
BLM-Administrative	1	5.00
Department of Energy	3	2,571.29
Federal Aviation Administration	3	417.77
Forest Service Administrative	2	11.40
BLM-Protective (Natural area)	1	520.00
Total		18,872.11

¹ Does not include nonadministrative site lands withdrawn to Forest Service

Forage
 11/10/00

APPENDIX 10

THE RECREATION OPPORTUNITY SPECTRUM CLASS DESCRIPTIONS

OPPORTUNITY CLASS	EXPERIENCE OPPORTUNITY	SETTING OPPORTUNITY
Primitive	Opportunity for isolation from the sights and sounds of man, to feel a part of the natural environment, to have a high degree of challenge and risk, and to use outdoor skills.	Area is characterized by essentially unmodified natural environment of fairly large size (2,500 acres). Concentration of users is very low and evidence of other users is minimal. The area is managed to be essentially free from evidence of man-induced restrictions and controls. Only facilities essential for resource protection are used. No facilities for comfort or convenience of the user are provided. Spacing of groups is informal and dispersed to minimize contacts between groups. Motorized use within the area is not permitted.
Semiprimitive Nonmotorized	Some opportunity for isolation from the sights and sounds of man, but not as important as for primitive opportunities. Opportunity to have high degree of interaction with the natural environment, to have moderate challenge and risk, and to use outdoor skills.	Area is characterized by a predominantly unmodified natural environment of moderate to large size (2,500 acres). Concentration of users is low, but there is often evidence of other area users. On-site controls and restrictions may be present, but are subtle. Facilities are provided for the protection of resource values and the safety of users only. Spacing of groups may be formalized to disperse use and limit contacts between groups. Motorized use is not permitted.
Semiprimitive Motorized	Some opportunity for isolation from the sights and sounds of man, but not as important as for primitive opportunities. Opportunity to have high degree of interaction with the natural environment, to have moderate challenge and risk, and to use outdoor skills. Explicit opportunity to use motorized equipment while in the area.	Area is characterized by a predominantly unmodified natural environment of moderate to large size (2,500 acres). Concentration of users is low, but there is often evidence of other area users. On-site controls and restrictions may be present, but are subtle. Facilities are provided for the protection of resource values and safety of users only. Spacing of groups may be formalized to disperse use and limit contacts between groups. Motorized use is permitted.
Roaded Natural	About equal opportunities for affiliation with other user groups and for isolation from sights and sounds of man. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities are not very important except in specific challenging activities. Practice of outdoor skills may be important. Opportunities for both motorized and nonmotorized recreation are present.	Area is characterized by a generally natural environment with moderate evidence of the sights and sounds of man. Resource modification and utilization practices are evident, but harmonize with the natural environment. Concentration of users is low to moderate with facilities sometimes provided for group activity. On-site controls and restrictions offer a sense of security. Rustic facilities are provided for user convenience as well as for safety and resource protection. Conventional motorized use is provided for in construction standards and design of facilities.

APPENDIX 10 (Continued)

THE RECREATION OPPORTUNITY SPECTRUM CLASS DESCRIPTIONS

OPPORTUNITY CLASS	EXPERIENCE OPPORTUNITY	SETTING OPPORTUNITY
Rural	Opportunities to experience affiliation with individuals and groups are prevalent as is the convenience of sites and opportunities. These factors are generally more important than the natural setting. Opportunities for wildland challenges, risk taking, and testing of outdoor skills are unimportant, except in those activities involving challenge and risk.	Area is characterized by substantially modified natural environment. Resource modification and utilization practices are obvious. Sights and sounds of man are readily evident, and the concentration of users is often moderate to high. A considerable number of facilities are designed for use by a large number of people. Facilities are often provided for specific activities. Developed sites, roads, and trails are designed for moderate to high use. Moderate densities are provided far away from developed sites. Facilities for intensive motorized use are available.

APPENDIX 11

CULTURAL RESOURCE MANAGEMENT GUIDELINES

Manage for Information Potential

Cultural resources included under this management objective are capable of contributing useful scientific, historic, or management information. This information potential is to be protected to the extent needed, by physical or administrative means until the potential has been realized through appropriate study. The following resource types, and/or areas, will be managed for information potential: prehistoric lithic scatters, prehistoric ceramic scatters, historic archeological sites without architectural features, sites in upland pinyon-juniper forests and sites in riparian areas.

Resources to be managed for information potential can be studied, utilized, or included in data recovery projects to mitigate adverse effects after compliance with the BLM 8100 Manual Series and section 106 of the National Historic Preservation Act.

Manage for Public Values

Cultural resources included under this objective possess identified sociocultural, educational, recreational, or other public values. Their locations are to be managed in a manner that gives adequate consideration to these values. Resources managed for public values will have those values realized through activity plans. The following resource types and/or areas will be managed for public values: rock art alignments (geoglyphs) will be managed to preserve their sociocultural values for Native Americans, historic town sites, mining or milling sites, ranching or agricultural sites, or other historic sites with architectural features will be managed for educational and recreational values. Cultural resources can be released from public value after a representative sample has been preserved.

Manage for Conservation

Cultural resources to be conserved are those with overriding scientific or historic importance. They are managed to maintain them in their present condition and to protect them from potentially conflicting land or resource uses. Resources managed for conservation will have those values realized through resource and/or area specific activity plans.

For conservation and protection of cultural resources, activity plans may provide for fencing, monitoring, purchase of claims, stabilization, establishment of parks with full time rangers, limited data recovery/collection, public education/interpretation, or other protective measures. In addition, it is important that representative samples of all classes of sites in the Tonopah Planning Area be preserved for the enjoyment and scientific benefit of future generations. Cultural resources can be released from conservation after a representative sample has been preserved.

Activity Plans

Cultural resources in the Tonopah Planning Area will be allocated to specific uses in subsequent activity plans. Activity plans containing detailed management prescriptions for selected cultural properties will be developed after use allocations have been made.

APPENDIX 11 (Continued)

CULTURAL RESOURCE MANAGEMENT GUIDELINES

Cultural resource activity plans will be developed for the following areas: Trap Springs-Gravel Bar Complex, Stormy-Abel Complex, Cane Man Hill Petroglyphs, Tybo-McIntyre Charcoal Kilns, Moores Station Petroglyphs, Jumbled Rock Petroglyph, Tonopah Lake Complex, Mud Lake Complex, Big Springs Petroglyphs, Fish Lake Valley Petroglyphs, Mountain View Arrastra, Columbus Salt Marsh, Witched Well, Oriental Wash Petroglyphs, Cave Spring and The Cistern.

A rock art management plan will be developed for the Tonopah Planning Area in consultation with Native American Leaders.

Monitoring

Archaeological Resource Protection Act (ARPA) surveillance points will be established in the following areas: Silver Peak Range, Clayton Valley, Fish Lake Valley, Hot Creek Range, Railroad Valley, all valleys with late Pleistocene lake features.

ARPA law enforcement and monitoring plans will be written for the following areas: Rhyolite, Trap Springs, Gravel Bar, and Stormy-Abel prehistoric districts, Fish Lake Valley Petroglyphs, Cave Spring, Cane Man Hill, Big Springs Petroglyphs and Fish Lake Valley Salt Marsh.

APPENDIX 16

LIVESTOCK GRAZING (RANGELAND MANAGEMENT) TONOPAH RESOURCE AREA MANAGEMENT FRAMEWORK PLAN

OBJECTIVES FOR LIVESTOCK FORAGE

To maintain and improve, where necessary, the condition of the rangeland vegetation resource.

To increase the amount of forage available for livestock.

To minimize short-term disruptions and ensure the long-term stability of the livestock industry.

GENERAL INFORMATION

There are 16 livestock permittees licensed to graze cattle on 19 allotments within the Tonopah Resource Area. Livestock have harvested an average of 73,385 AUMs (the amount of forage necessary to sustain one cow, one horse, or five sheep for one month) of forage annually over the past five years. The forage available for livestock consumption comes from 15 broad vegetation types within the resource area. The vegetation within the types varies from scattered salt tolerant shrubs and grasses, through many varieties of desert shrubs, grasses, and forbs, to scattered stands of pinyon pine, juniper, and mountain mahogany on the intermediate and high mountains.

DECISIONS

1. Manage livestock grazing to assure that the physiological needs of the key plant species are met. Changes in management will be made if utilization and trend studies indicate that the degree of use exceeds the biological tolerance of key species.
2. Establish critical habitat for plants that are threatened or endangered.
3. Provide additional forage through artificial land treatment when intensive range management and new water developments do not meet vegetation demand. The following allotments will be considered.

Estimated Potential Through Artificial Treatment

Allotment	Treatment	Acres	Production Additional AUMs
Francisco	Spray or Burn and Seed	1,400	257
Hunts Canyon	Spray or Burn and Seed	3,700	854
	Spray or Burn	960	
Ione	Spray or Burn	2,400	440
Monitor	Spray or Burn and Seed	5,025	921
Sand Springs	Spray or Burn and Seed	10,000	1,833
Stone Cabin	Spray or Burn and Seed	6,400	2,581
	Spray and Seed	7,680	

4. Livestock and rangeland may be intensively managed on all allotments. Allotment management plans will be implemented in the following priority dependent upon manpower and available funding.

AMP ALLOTMENTS	PRIORITY
Wagon Johnnie	N/A
Willow Creek	N/A
Stone Cabin	1
Reveille	2
Morey	3
Hot Creek	4
Crater Black Rock	5
Sand Springs	6
Nyala	7
Hunts Canyon	8
Ione	9
San Antone	10
Smoky	11
Monitor	12
Ralston	13
Francisco	14
Butterfield	15
Blue Eagle	16

Allotment management plans for the Forest Moon and Currant Ranch allotments will be developed by the Ely District Office.

5. Implementation of livestock grazing use will be through the Individual Stewardship Program. The concept of Coordinated Resource Management and Planning (CRMP) will be utilized to involve interested persons and groups in the resource considerations in the grazing allotments. Adjustments in livestock grazing will be based on vegetative study and in consultation with all affected interests, utilizing the CRMP process.
6. Grazing will be managed with the following land uses to be considered in the development of allotment management plans:

Blue Eagle: Oil and gas development, riparian/wetland management (Blue Eagle Pond Area), and bighorn sheep habitat management.

Additional vegetation produced in the future within bighorn sheep and antelope habitat areas will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Butterfield: Oil and gas production, riparian/wetland habitat management (Big Well and Lockes Pond), and bighorn sheep habitat management (lambing), deer winter range, and deer summer range management.

Additional vegetation produced in the future within mule deer habitat areas will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Crater Black Rock: Oil and gas development, recreation management (volcanic field), antelope habitat management, and riparian/wetland management (120 acres at Chimney Spring).

Currant Ranch, Forest Moon: Bighorn Sheep habitat management and deer winter range management.

Implementation of livestock grazing use will be dependent upon the grazing management levels that the Ely District Office recommends.

Francisco: Community Expansion.

Hot Creek: Oil and gas development, mule deer winter habitat management (South Six Mile Canyon), bighorn sheep re-introduction, primitive recreation, mule deer summer range, cultural resources, and woodland products.

Additional vegetation produced in the future within deer areas will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Additional vegetation resulting from habitat manipulation for deer will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Additional vegetation resulting from livestock management by permittee's own initiative (Individual Stewardship Program) will be reserved for livestock as first consideration provided no adverse impacts to mule deer habitat is assured.

Hunts Canyon: Wild horse management and cultural resource management.

Additional vegetation produced in the future within antelope ranges will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Ione: Antelope habitat management (re-introduction).

Monitor: Riparian/wetland habitat management (Corcoran Creek, Mosquito Creek, Pine Creek), antelope management, sage grouse habitat management, and wild horse management.

Additional vegetation produced in the future within deer habitat areas will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Allocate additional vegetation outside of deer use areas resulting from improved livestock management on a proportionate share of grazing preference.

Allocate additional vegetation provided by land treatment (estimated potential of 1,600 AUMs) to livestock by a proportionate share of preference if government funds are used. Vegetation provided by treatment where permittee(s) provide for costs will be allocated on a cost/share basis.

Morey: Deer winter range management, deer summer range management, bighorn sheep habitat management (re-introduction), riparian habitat management (North Six Mile Canyon), woodland products and cultural resource management.

Additional vegetation provided for mule deer by habitat manipulation will be allocated entirely for deer. Allocation of additional vegetation by habitat manipulation for livestock will be allocated to deer to the extent necessary to support reasonable numbers for these animals.

Additional vegetation resulting from livestock management by the permittee's own initiative (Individual Stewardship Program) will be allocated to livestock as first consideration, provided no adverse impacts to mule deer habitat is assured.

Nyala: Oil and gas development, wild horse management, riparian habitat management (Little Meadow Creek and Troy Creek), bighorn sheep winter range management, antelope

habitat management, deer winter range management.

Ralston: Community expansion (Tonopah and Tonopah airport), antelope habitat management, recreation management (Mud Lake), deer winter range management, and wild horse management.

Reveille: Oil and gas development, wild horse management, geothermal development, deer summer range management (Kawich Range), riparian habitat management (Eden Creek), antelope habitat management (Railroad Valley), deer winter range management (Reveille and Pancake ranges), woodland products.

Additional vegetation resulting from range improvement within deer ranges will be allocated to deer as first consideration to the extent necessary to support reasonable numbers for these animals.

Additional vegetation resulting from livestock management by the permittee's own initiative (Individual Stewardship Program) will be allocated to livestock as first consideration, provided no adverse impacts to mule deer or wild horse habitat is assured.

San Antone: Deer winter range management, antelope habitat management (re-introduction), recreation (Crescent Sand Dunes), and community expansion.

Additional vegetation produced in the future within deer habitat areas will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Sand Springs: Oil and gas development, recreation (Black Rock Lava Flow), wild horse management, antelope habitat management, and deer habitat management.

Additional vegetation that becomes available through livestock management will be allowed on a proportionate share of preference unless it is demonstrated that one or more permittee(s) are directly responsible for such vegetation improvements due to costs or management. All additional forage in the latter case will be allocated to the permittee(s) responsible for the improvement. All permittees will be consulted.

Vegetation which is made available from regular non-use may be used by another permittee within the allotment on a temporary, non-renewable basis. This applies only when the non-use is not in the interest of conservation of the range.

Smoky: Community expansion (Carver's Station and Round Mountain), geothermal development, deer winter range management, riparian habitat management (Barker, Jefferson, and Moore's Creek).

Additional vegetation produced in the future within deer habitat areas will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Stone Cabin: Oil and gas development, wild horse management, antelope habitat management, deer summer and winter range management, and woodland products.

Additional vegetation produced in the future within deer habitat areas will be reserved for them to the extent necessary to support reasonable numbers for these animals.

Wagon Johnnie: Wild horse management, antelope habitat management, riparian/fisheries management (Danville and Clear Creeks), cultural resource management (James Wild Horse Trap), sage grouse habitat management, and elk habitat management.

Willow Creek: Wild horse management, antelope habitat management, deer winter range management, and sage grouse habitat management. Management will be closely coordinated with the Toiyabe National Forest.

Additional vegetation provided by improved management will be allocated to livestock.

7. Livestock grazing will be excluded from the areas listed below to achieve wildlife habitat management objectives. Livestock use may be allowed in a prescribed manner by a temporary, nonrenewable grazing license to achieve specific wildlife management objectives identified by the habitat management plans for each area.

Allotment	Area	Acres	Habitat Management Objectives
Blue Eagle	Blue Eagle Pond	49	Wetland/Riparian
Butterfield	Big Well/Lockes Pond	402	Wetland/Riparian
Crater Black Rock	Chimney Spring	120	Wetland/Riparian
Morey	Morey Bench	2,500	Mule Deer Habitat
Morey	North Six-Mile	2,765	Riparian/Mule Deer
Hot Creek ¹	South Six-Mile	11,056	Riparian/Mule Deer
Smoky	East Toiyabe	8,127	Mule Deer

¹ Acreage shown for Hot Creek Allotment has been reduced because of forest enhancement.

APPENDIX 17

RECORD OF DECISION FOR THE FINAL TONOPAH GRAZING ENVIRONMENTAL IMPACT STATEMENT

INTRODUCTION

The Final Tonopah Grazing Environmental Impact Statement was published in September of 1980. The proposed action, described in the environmental impact statement, has been accepted as the decision subject to certain modifications. The modifications are the result of public comment, the initiation of the Tonopah Individual Stewardship Program, the advent of the coordinated resource management and planning concept in Nevada, a reassessment of the range inventory data, and management decisions to keep some wild horses in all current use areas and expand the area protected for riparian wildlife habitat values. The following sections identify specific changes from the proposed action of the environmental impact statement.

Periods-of-use

The period-of-use changes will not be initiated at this time. The establishment of periods-of-use was intended to provide for the physiological needs of the key forage plant species. These needs can usually be met through grazing systems which include periodic rest from grazing. Period-of-use changes may be necessary in the future if utilization and trend studies indicate that grazing use exceeds the biological tolerance of key plant species.

Livestock Management

In the proposed action of the grazing statement, intensive livestock management was not slated for all of the grazing allotments based on economic factors. Through the experimental stewardship program each livestock permittee may now develop a plan which will address the intensity of management.

Livestock Reductions

The proposed action of the environmental impact statement included certain livestock grazing reductions. No required livestock reductions will be implemented at this time in order to provide an opportunity for the Individual Stewardship Program incentives as intended by Section 12 of the Public Rangelands Improvement Act of 1978 (P.L. 95-514) and the coordinated resource management and planning process to produce improvements in the rangeland.

Livestock Support Facilities

The land treatments discussed in the proposed action of the environmental impact statement will not be implemented unless intensive range management and water developments do not meet the vegetation demand.

THE LIVESTOCK FORAGE, WILD HORSE, AND WILDLIFE HABITAT MANAGEMENT PROGRAM DECISIONS

For a complete summary of the decisions for the above listed programs, please refer to the subsections having the same title under the previous heading "Livestock Grazing (Rangeland Management), Tonopah Management Framework Plan Decisions."

IMPLEMENTATION OF THE DECISIONS THROUGH THE INDIVIDUAL STEWARDSHIP PROGRAM AND THE COORDINATED RESOURCE MANAGEMENT AND PLANNING CONCEPT

The BLM has three levels of planning. The management framework plan (MFP) is a general plan which describes how the land and its resources will be used. It also contains resource condition and protection objectives and specifies levels of resource use. Activity plans such as livestock grazing plans, wildlife habitat management plans, and wild horse herd area management plans prescribe specific courses of action for achieving the objectives of the MFP. Project plans provide design and contract specifications for individual projects such as spring developments and fences. Activity plans and project plans are developed to implement the decisions of the MFP.

This section of the record of decision describes the process through which the decisions of the MFP will be implemented. The two basic elements of the process are coordinated resource management and planning (CRMP) and the Individual Stewardship Program.

The Individual Stewardship Program, authorized by the Public Rangelands Improvement Act of 1978, is a trial procedure for implementing grazing management plans. It will be applied in the Tonopah Resource Area to allow livestock operators to develop innovative grazing management techniques. Individual operators electing to participate will become involved in a program which establishes a mechanism for providing incentives and rewards to livestock operators whose stewardship results in improved management of public rangelands. Participants will develop a livestock grazing management plan for their allotments under the stewardship concept. Each management plan must include actions designed to achieve the objectives of the Tonopah MFP. These plans will be coordinated through the CRMP process to inform and/or provide additional involvement that is needed to meet land use plan objectives.

The livestock forage, wildlife habitat, and wild horse program decisions include many actions designed to avoid or minimize environmental harm. The actual implementation of the decisions may take place through the Individual Stewardship Program and/or the coordinated resource management and planning concept. As it is expected that additional measures to avoid or minimize environmental harm will be identified through these two processes in the future, not all such actions are directly identified in the decisions.

Through the CRMP concept, livestock operators, interested members of the public, organization representatives and officers of state and federal resource management agencies will be given an opportunity to work together in the formulation of various activity plans for the management of wildlife, wild horses, and livestock. These activity plans will be completed within the framework of the Tonopah MFP and the laws and regulations which govern the conduct of the BLM.

The goal of CRMP is to bring together all parties interested in resource management for a particular land area to strengthen and improve the management of public land, enhance the quality and productivity of resources in local planning areas, and diminish, if not resolve, conflicts among users. This is to be accomplished through a localized CRMP group consisting of private land owners, federal and state land managers, resource users and interest groups.

Additional information pertaining to the CRMP process is contained in the Nevada Coordinated Resource Management and Planning Handbook prepared by the Nevada Coordinated Resource Management and Planning Task Group. The task group consists of staff members of the Nevada Department of Agriculture, State Conservation Commission, Department of Conservation and Natural Resources, Department of Wildlife; The University of Nevada at Reno, College of Agriculture; the U.S. Forest Service, Soil Conservation Service, Bureau of Land Management, Agriculture Stabilization and Conservation Service, and Fish and Wildlife Service. It operates under the Memorandum of Understanding for Coordinated Resource Management and Planning in Nevada signed by the heads of the Nevada state agencies and state or regional heads of the federal agencies listed previously.

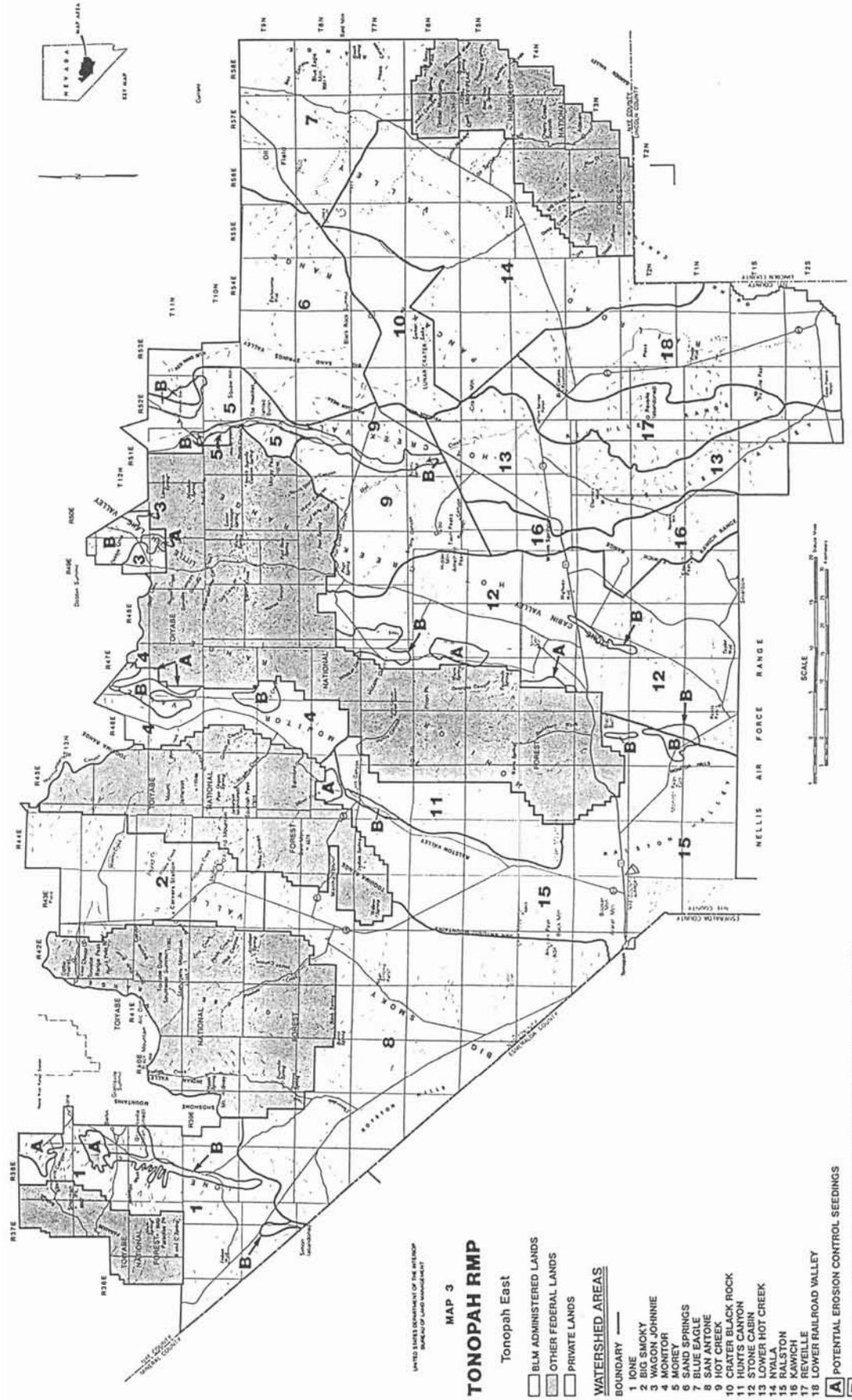
The process through which specific activity plans will be developed will begin in 1981. The details of the process are subject to change depending upon the recommendations of the local CRMP group. Additional information about the process will be sent to interested parties as it becomes available.

APPROPRIATIONS

The development of the grazing management program for the Tonopah Resource Area will be dependent upon the provision of adequate appropriations and manpower for implementation.

MONITORING

A monitoring program will determine the effectiveness of the rangeland management program. Existing vegetation, wildlife, and wild horse studies will be continued and additional studies will be established during 1981. These studies will measure changes in plant composition, vigor, ground cover, and animal populations to determine progress toward specific land management objectives. The information obtained from the monitoring program will be used to evaluate the effects of the rangeland management program on a resource area wide basis.



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MAP 3

TONOPAH RMP

Tonopah East

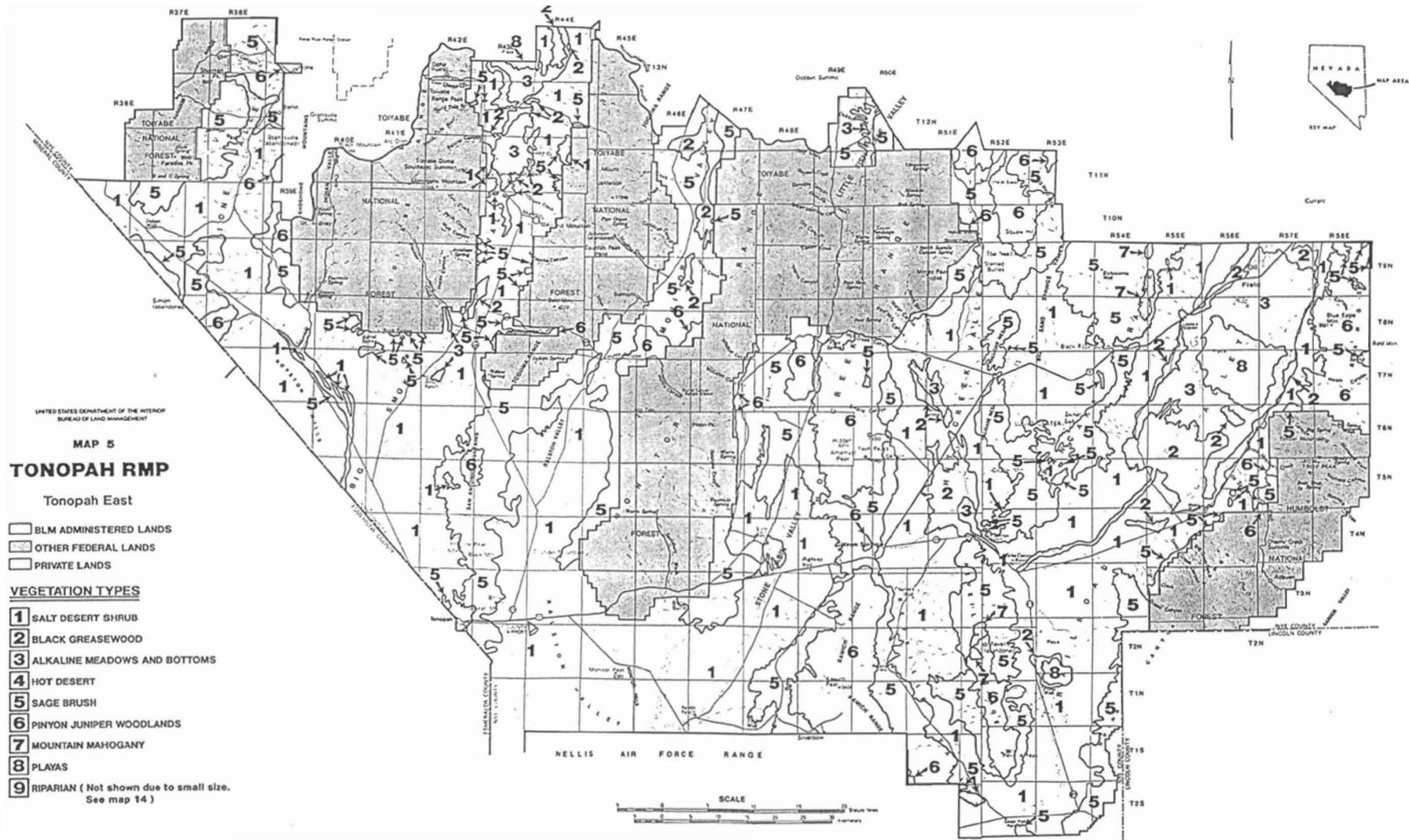
- BLM ADMINISTERED LANDS
- OTHER FEDERAL LANDS
- PRIVATE LANDS

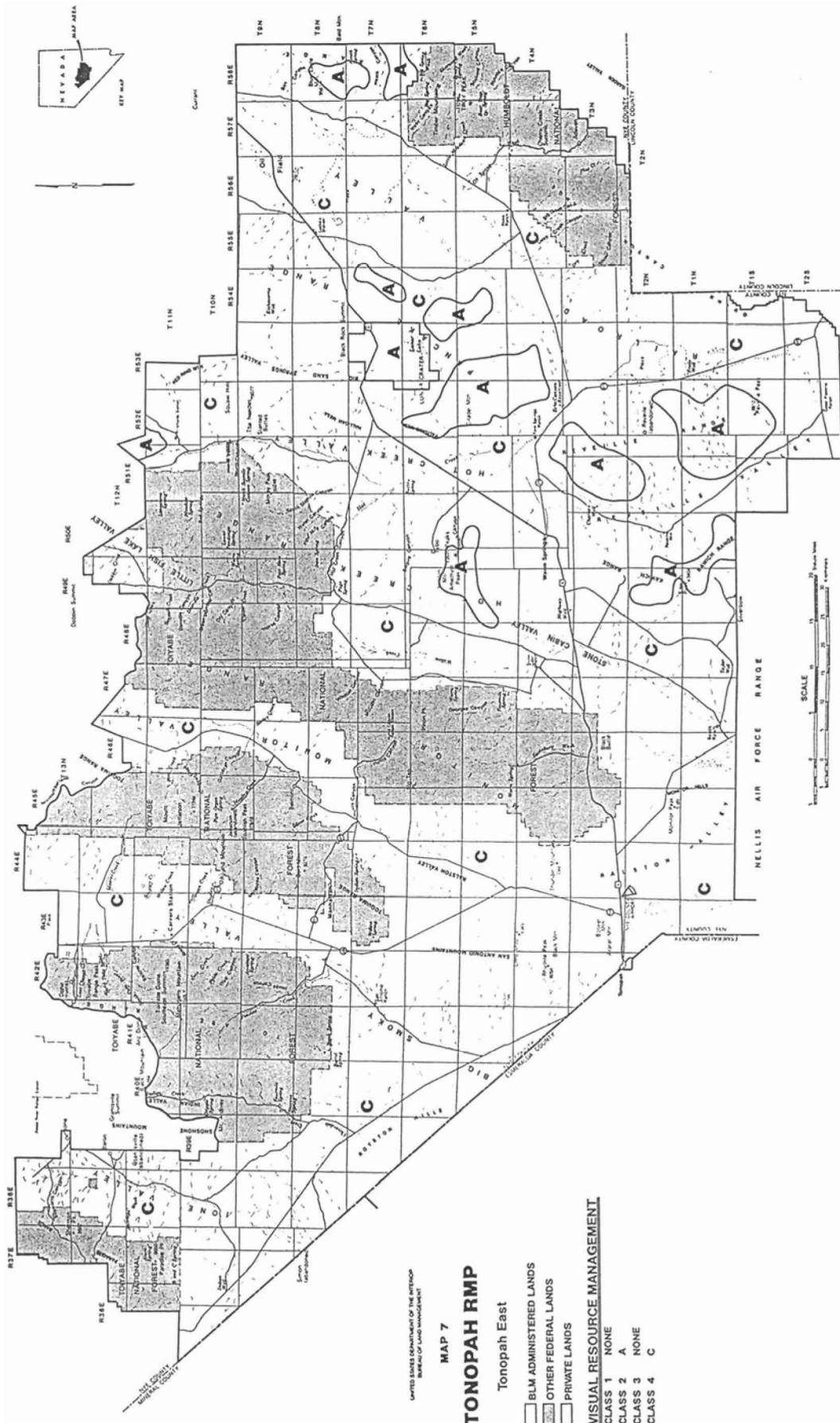
WATERSHED AREAS

- BOUNDARY ———
- 1 IONE
- 2 BIG SMOKY
- 3 WAGON JOHNNIE
- 4 MARY MORRIS
- 5 MOREY
- 6 SAND SPRINGS
- 7 BLUE EAGLE
- 8 SAN ANTONIO
- 9 HOT CREEK
- 10 CRATER BLACK ROCK
- 11 HUNT'S CANYON
- 12 LOWER RAILROAD VALLEY
- 13 LOWER HOT CREEK
- 14 NYALA
- 15 RALSTON
- 16 KAWICH
- 17 REVELLE
- 18 LOWER RAILROAD VALLEY

A POTENTIAL EROSION CONTROL SEEDINGS

B POTENTIAL EROSION CONTROL SEEDINGS AND STREAM BANK CHANNEL STABILIZATION





UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MAP 7

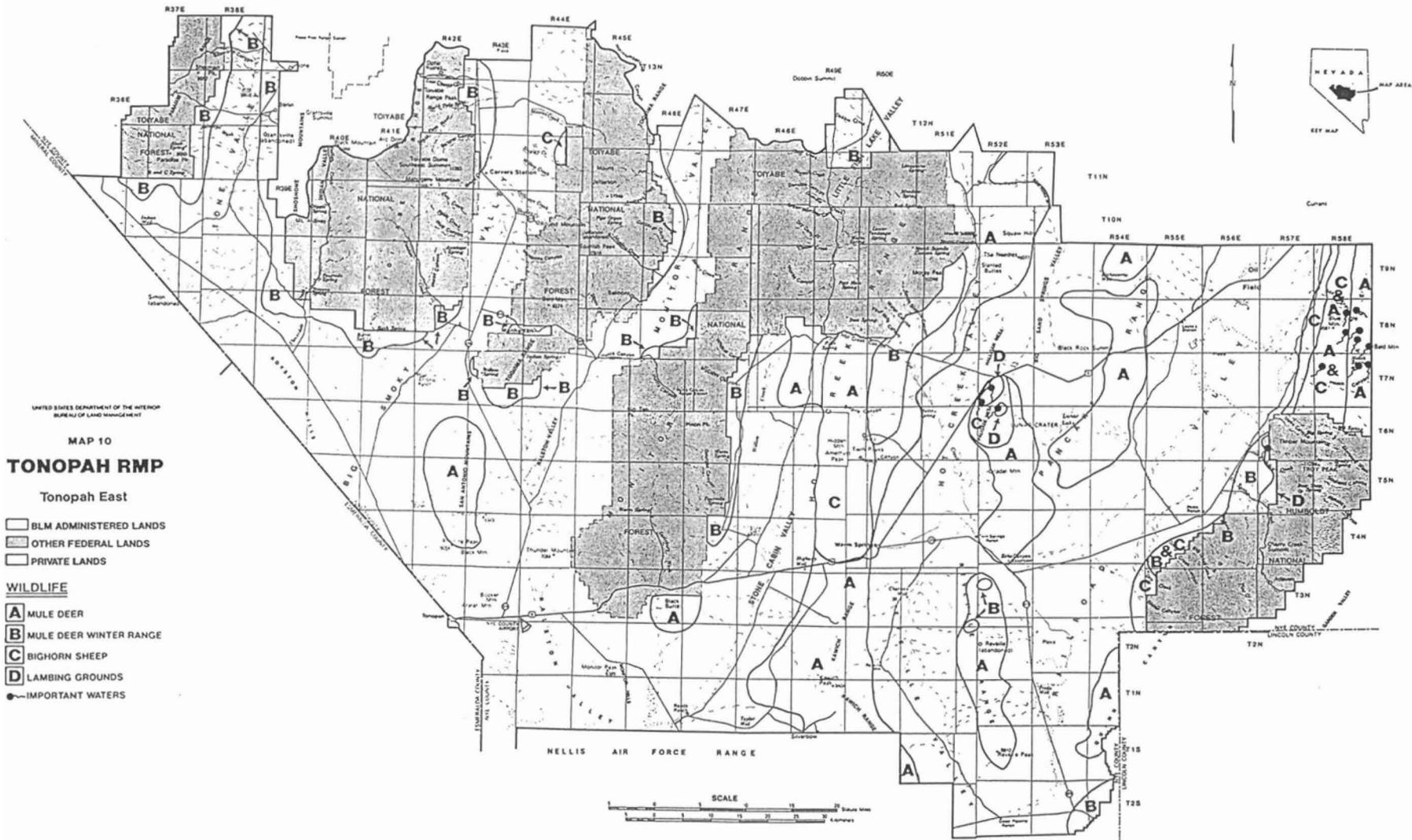
TONOPAH RMP

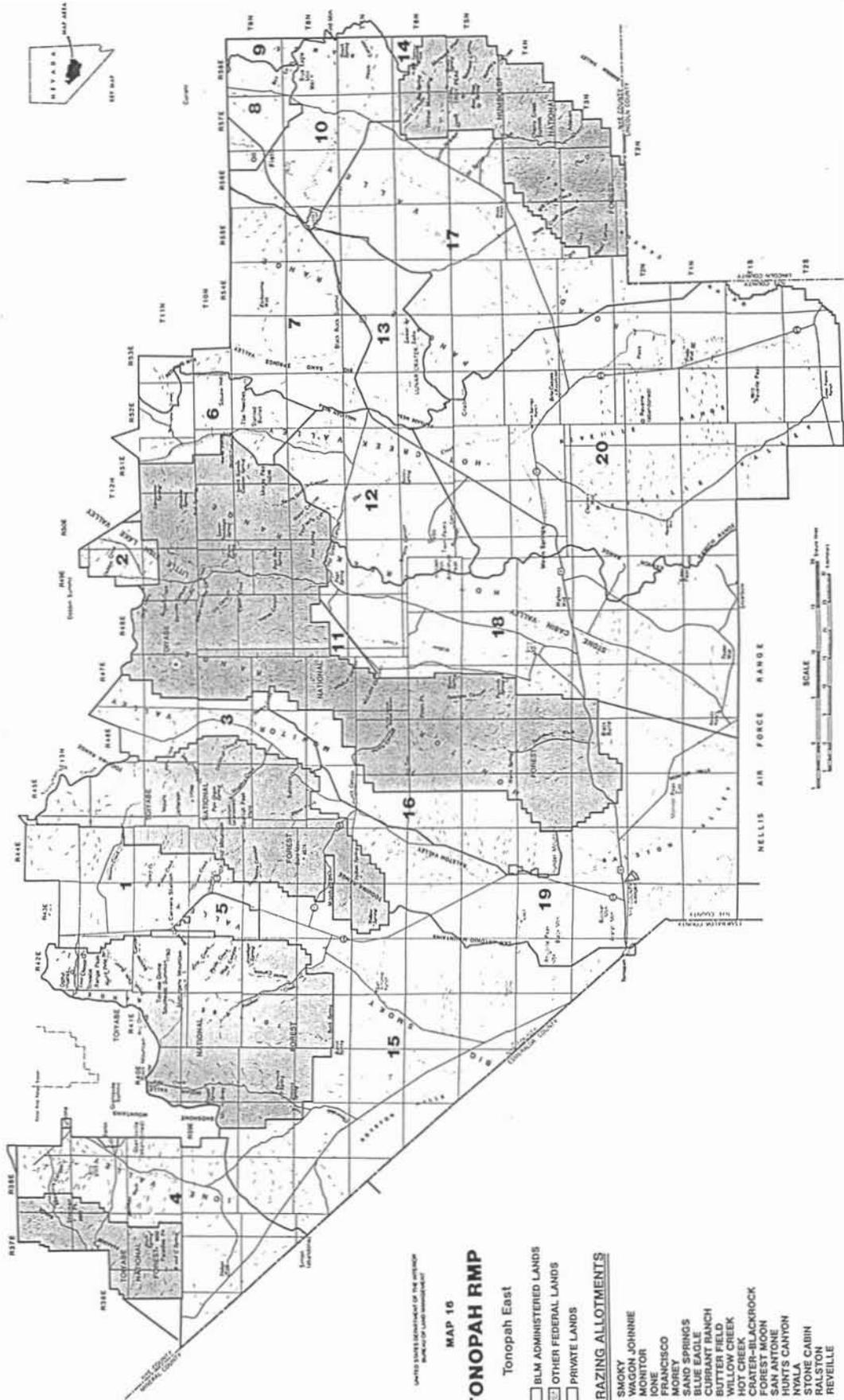
Tonopah East

-  BLM ADMINISTERED LANDS
-  OTHER FEDERAL LANDS
-  PRIVATE LANDS

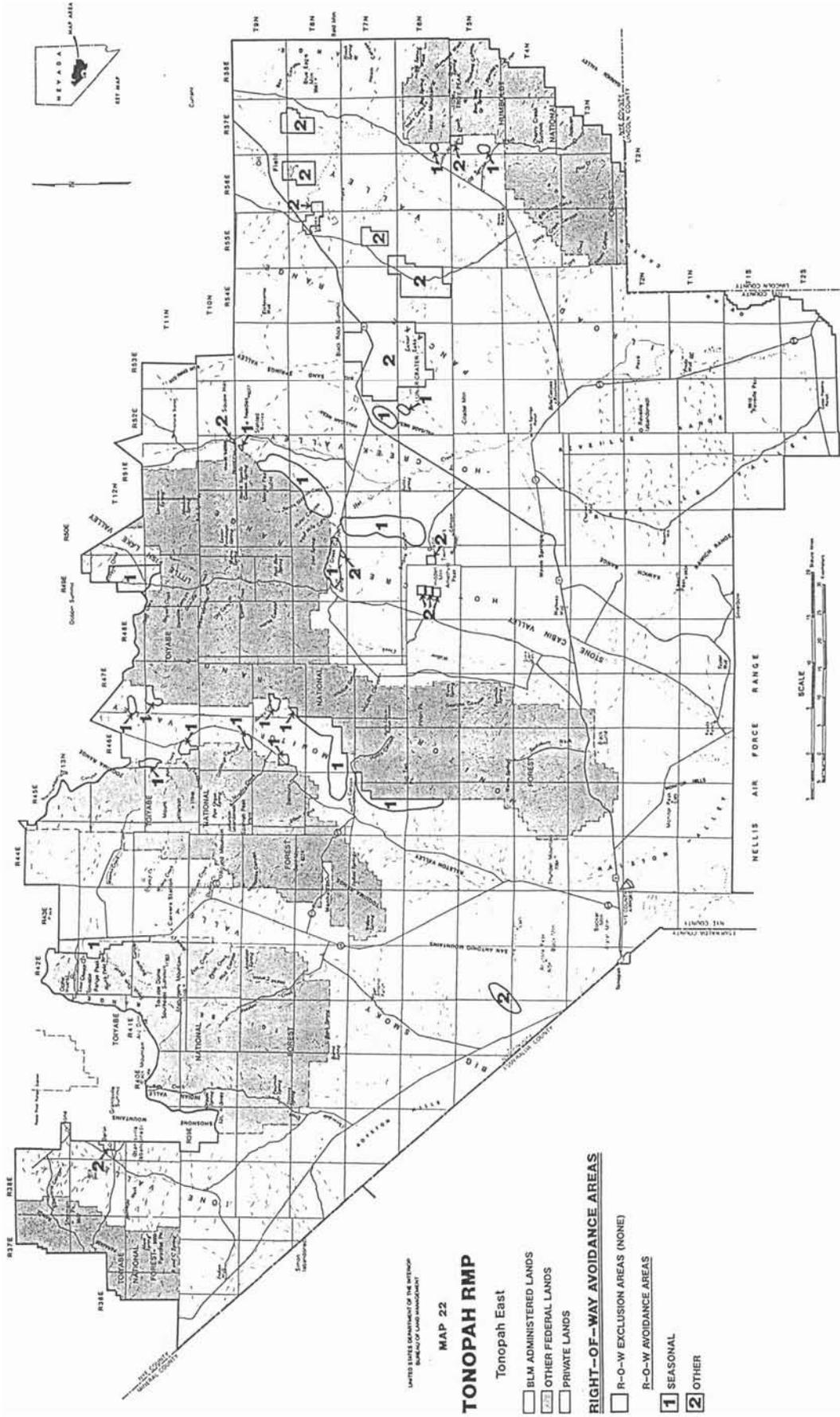
VISUAL RESOURCE MANAGEMENT

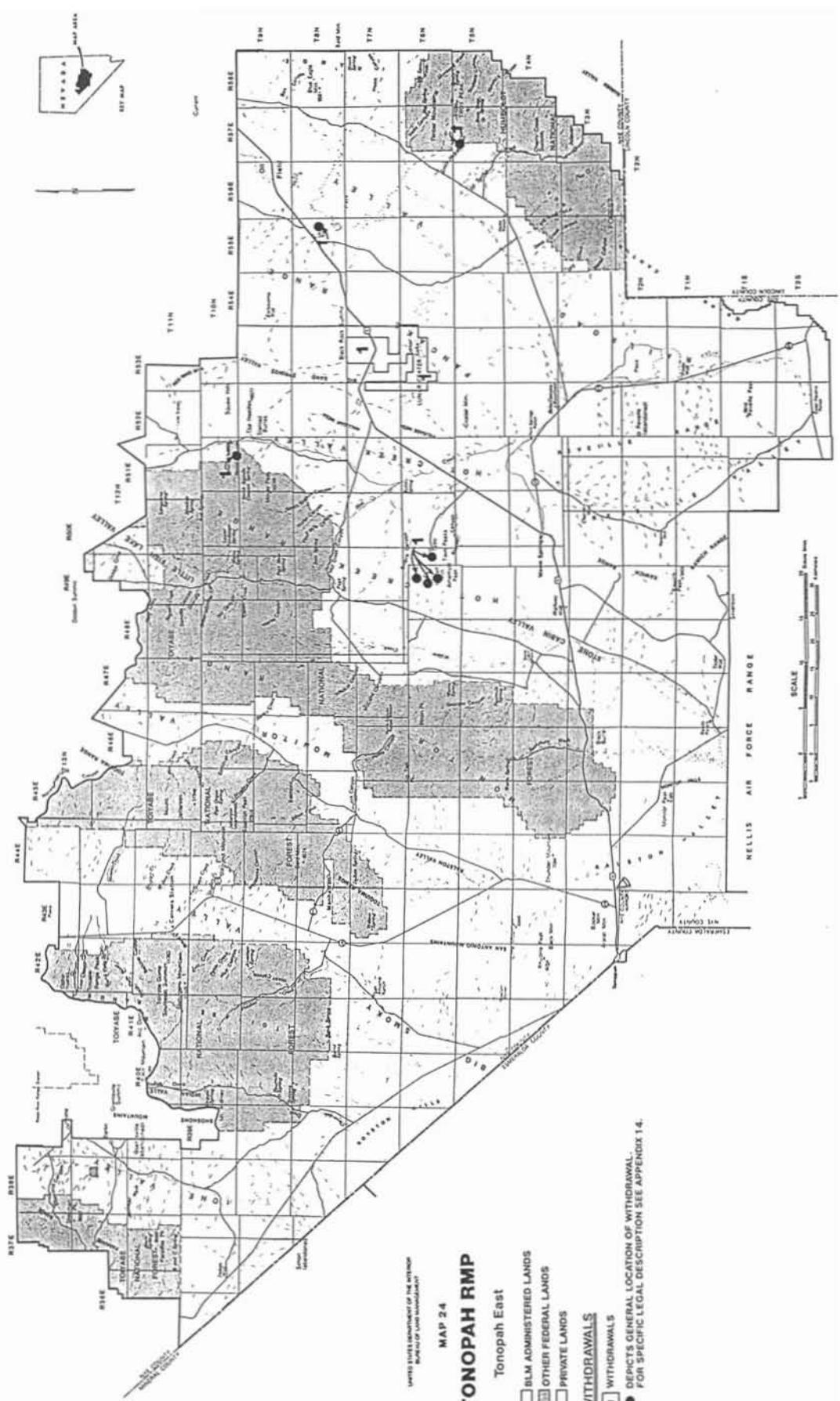
- CLASS 1 NONE
- CLASS 2 A
- CLASS 3 NONE
- CLASS 4 C

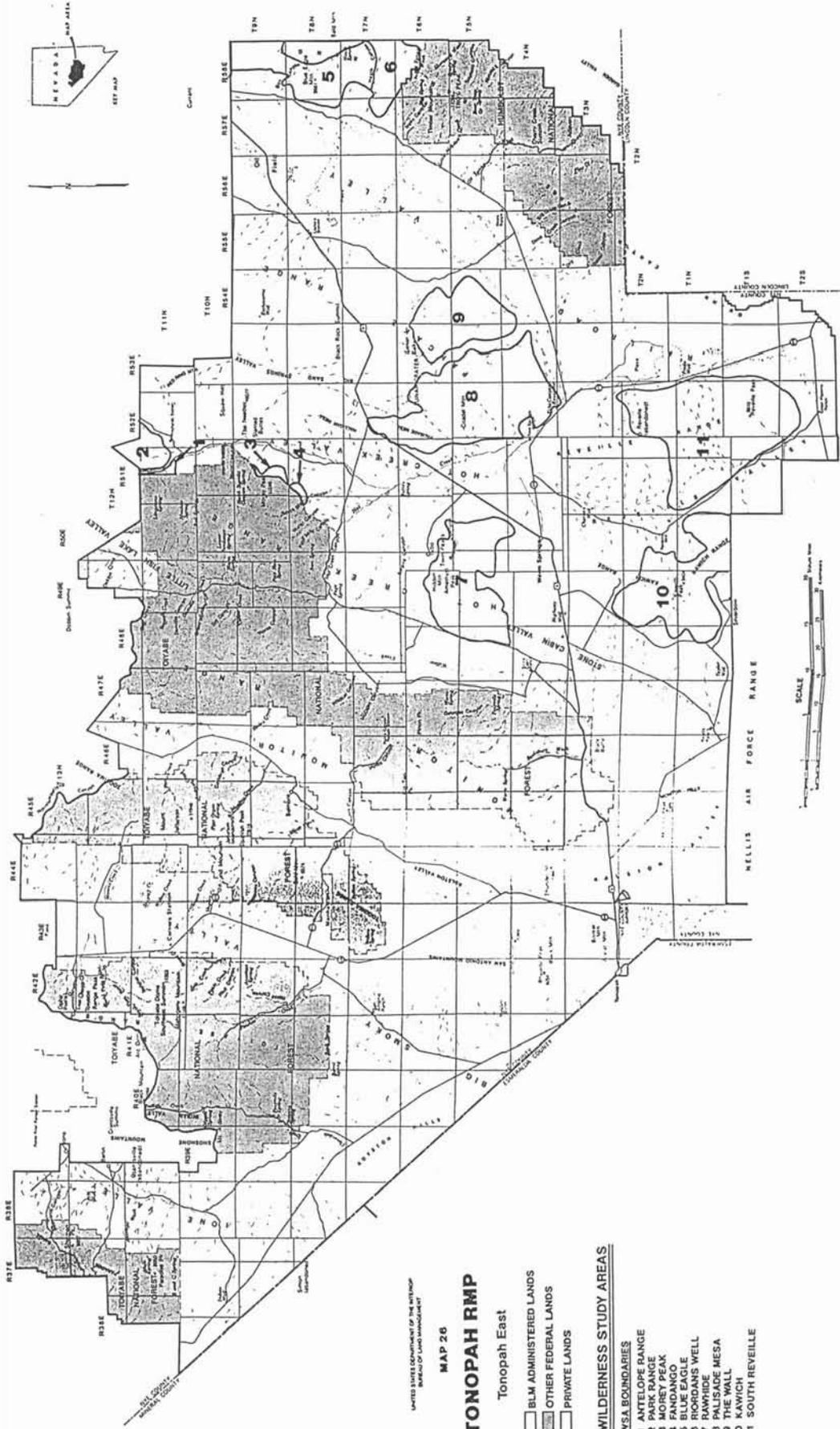












UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MAP 26

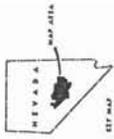
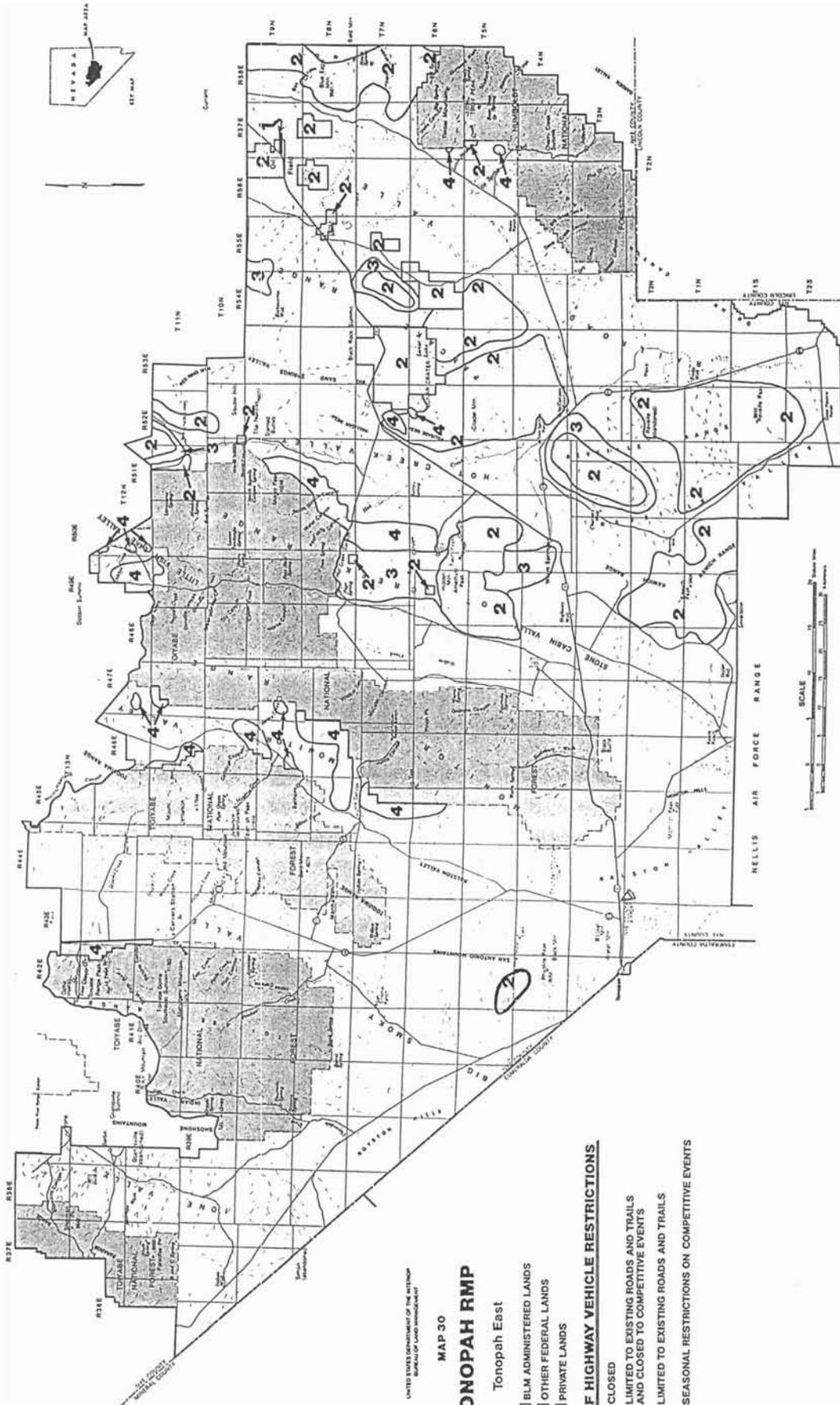
TONOPAH RMP

Tonopah East

-  BLM ADMINISTERED LANDS
-  OTHER FEDERAL LANDS
-  PRIVATE LANDS

WILDERNESS STUDY AREAS

- WSA BOUNDARIES**
- 1 ANTELOPE RANGE
 - 2 PARK RANGE
 - 3 MOREY PEAK
 - 4 FANDANGO
 - 5 BLUE EAGLE
 - 6 HORDAN'S WELL
 - 7 PALISADE MESA
 - 8 THE WALL
 - 9 KAWICH
 - 10 SOUTH REVELLE
 - 11



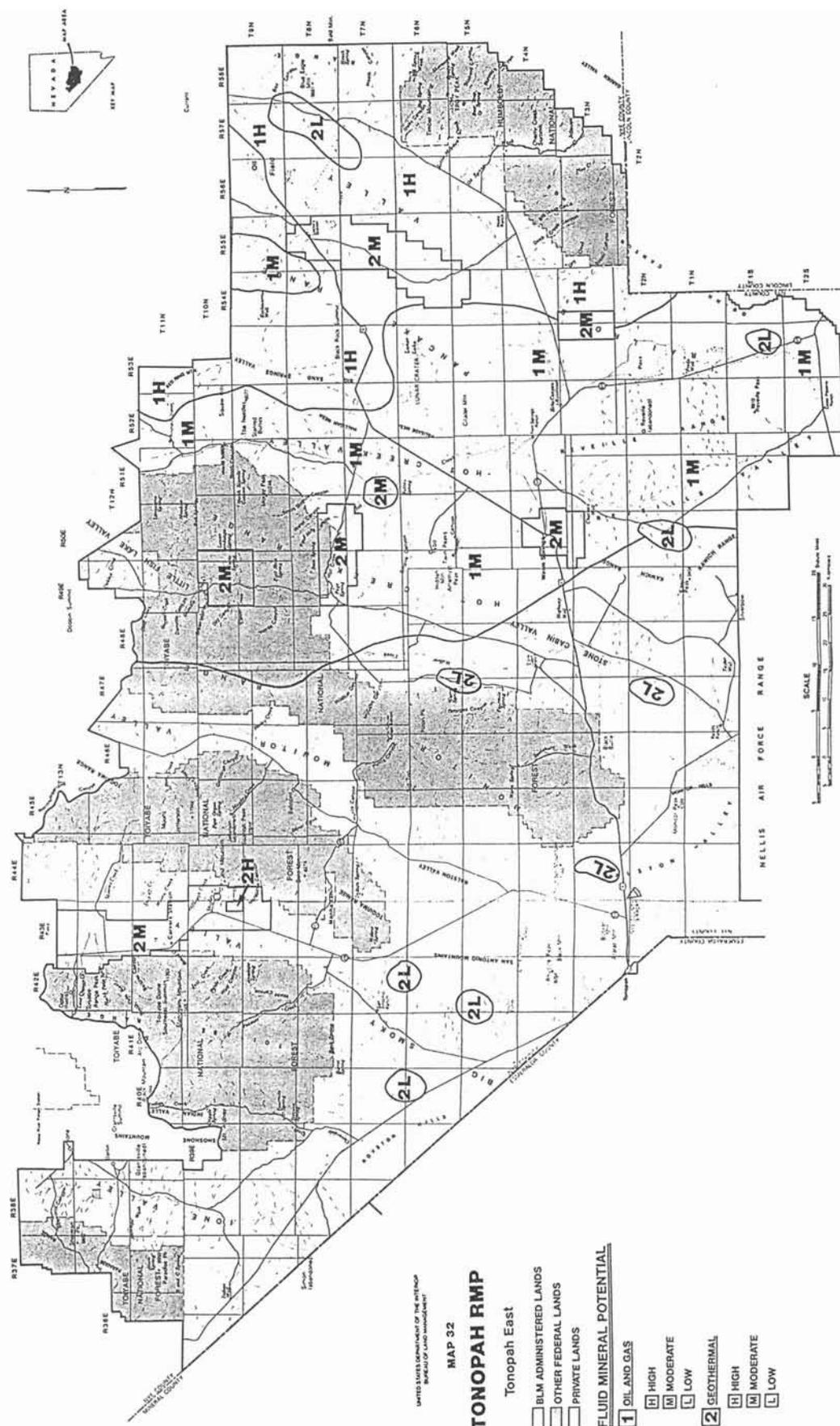
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MAP 30
Tonopah RMP
Tonopah East

- BLM ADMINISTERED LANDS
- OTHER FEDERAL LANDS
- PRIVATE LANDS

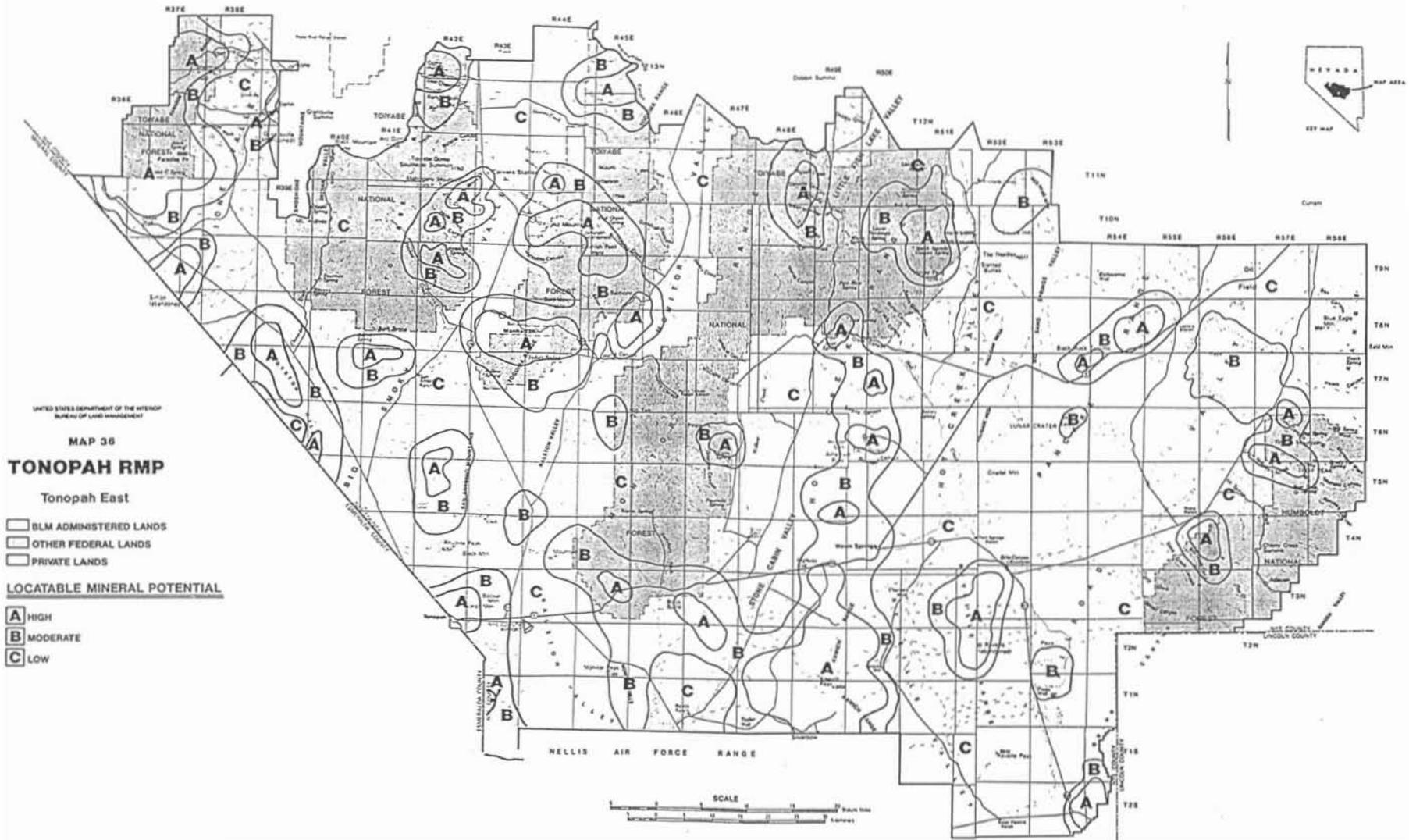
OFF HIGHWAY VEHICLE RESTRICTIONS

- 1** CLOSED
- 2** LIMITED TO EXISTING ROADS AND TRAILS AND CLOSED TO COMPETITIVE EVENTS
- 3** LIMITED TO EXISTING ROADS AND TRAILS
- 4** SEASONAL RESTRICTIONS ON COMPETITIVE EVENTS



NELLIS AIR FORCE RANGE





Caliente Corridor Alignment and Grazing Allotments

Railroads

-  Proposed Corridor Routes
-  Proposed Caliente Corridor (1/4-mile wide)
-  Existing Railroad Lines

Roads

-  Federal and State
-  County and BLM

Boundaries

-  Grazing Allotments
-  County

Scale
1:265,000



Air Strips

-  Public
-  Private

Land Owner/Use

-  Bureau of Land Management
-  Department of Defense
-  Forest Service
-  Nevada State
-  Private
-  Bureau of Indian Affairs
-  Department of Energy
-  Fish and Wildlife Service
-  National Park Service
-  Nevada State

-  Existing Well

Common Mitigation Actions

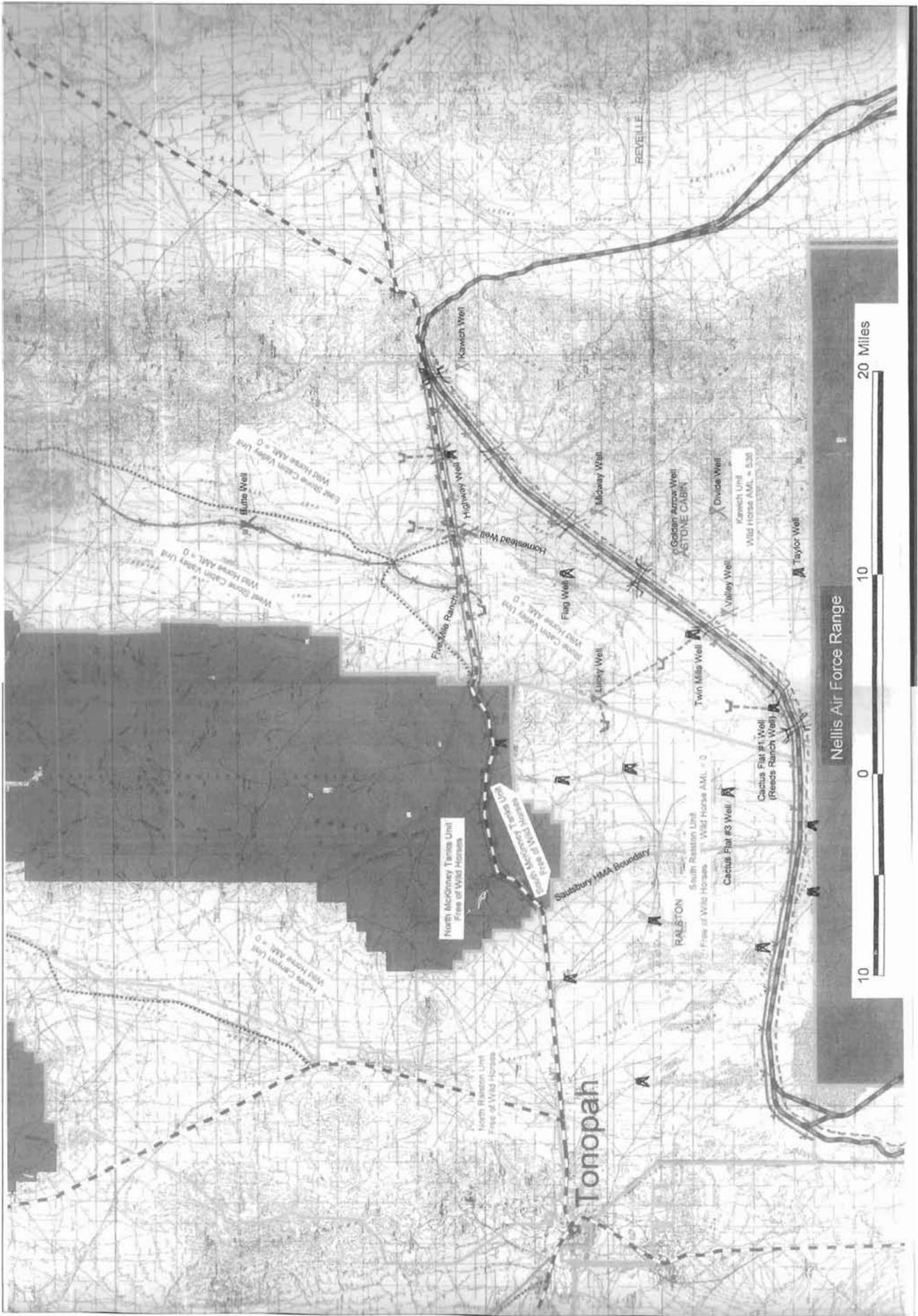
-  New Fence
-  New Well
-  New Pipeline
-  New Trough
-  New Highway Underpass

Favored Mitigation Actions

-  Surface Crossing
-  New Grazing Unit
Wild Horse AML

Optional Mitigation Actions

-  New Fence
-  New Well
-  New Railroad Underpass



Neillis Air Force Range



**SUPPLEMENT TO THE FEBRUARY 22, 2005 SCOPING
COMMENTS BY COLVIN & SON, LLC**

MARCH 18, 2005

**by
COLVIN & SON, LLC
of
TONOPAH, NEVADA**

**as related to the
NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT
FOR THE ALIGNMENT, CONSTRUCTION, AND OPERATION OF A RAIL LINE
TO A GEOLOGICAL REPOSITORY AT YUCCA MOUNTAIN, NYE COUNTY, NV
dated**

**APRIL 2, 2004
published in
69 Fed.Reg. 18565-18569 (4/8/04)**

These supplemental scoping comments clarify the intent behind Colvin & Son, LLC's ("Colvin's") February 22, 2005 scoping comments and describe an interim plan to direct management until such time as all approved mitigation measures are implemented within the Stone Cabin and Ralston allotments. These supplemental comments were prepared to address concerns that were raised by Stone Cabin Partnership (the Clifford family) in response to Colvin's initial February 22, 2005 scoping comments.

The Cliffords' primary concerns with Colvin's initial proposal to mitigate impacts that would result from construction and operation of the Caliente Rail Route were raised in meetings and conversations with Resource Concepts, Inc., and in a recent meeting with Larry Schutte, Colvin's ranch manager. The Cliffords' primary concerns were:

- 1) The Cliffords believe that the proposed exclusive use area in the West Stone Cabin Valley Unit does not provide them with their proportional share of the Stone Cabin Allotment;
- 2) The Cliffords believe that no portion of the currently vacant Ralston and McKinney Tanks grazing preferences will be permitted to Colvin & Son, LLC or to Stone Cabin Partnership in the near future because of ongoing litigation between the United States and Hage; and,
- 3) The Cliffords fear that their grazing use would be confined to the West Stone Cabin Valley Unit without the vacant Ralston and McKinney Tanks preference north of US Highway 6 ever being assigned to them, leaving them with little flexibility to adjust their grazing operation to changing conditions.

From the beginning it was Colvin's intent that all of the "common" and "favored" mitigation actions outlined in its February 22, 2005 scoping comments would be implemented concurrently as soon as possible upon commencement of Caliente Rail Route construction activities. To the extent any such proposed mitigation actions are not implemented, impacts to the interests of Colvin and others within the Stone Cabin Allotment would not be completely mitigated and the parties would not be left whole.

Colvin holds an active preference of 11,973 AUMs within the Stone Cabin Allotment (65% of the total active forage demand). Stone Cabin Partnership holds an active preference of 1,990 AUMs (11% of the total active forage demand). Wild horses have been allocated 4,368 AUMs within the Stone Cabin Allotment (24% of the total active forage demand).

The West Stone Cabin Valley Unit represents about 22% of the total acreage within the Stone Cabin Allotment and is estimated to produce at least 15% of the allotment's available forage under current conditions. Thus, the West Stone Cabin Valley Unit provides more than the Stone Cabin Partnership's proportional share of the allotment's acreage and more than satisfies their active preference which is only 11% of the total active forage demand in the allotment. Thus, Stone Cabin Partnership would remain whole without any Ralston or McKinney Tanks grazing preference.

The East Stone Cabin Valley Unit and Stone Cabin Valley Unit together comprise about 50% of the total acreage within the Stone Cabin Allotment and are estimated to produce approximately 50% of the allotment's available forage under current conditions. These two units combined do not provide for Colvin's proportional share of the allotment's acreage and do not satisfy Colvin's active preference which is 65% of the total active forage demand in the allotment. Thus, in order to remain whole under Colvin's favored mitigation scenario, Colvin must receive some of the Ralston and McKinney Tanks grazing preference.

The Kawich Unit represents about 28% of the total acreage within the Stone Cabin Allotment and is estimated to produce at least 35% of the allotment's available forage under current conditions. Thus, the Kawich Unit provides more than the proportional share of the allotment's acreage and forage needed by its wild horses at the Appropriate Management Level of 364 horses (22% of the total active forage demand in the Stone Cabin Allotment). Thus, the Kawich Unit will be used to accommodate wild horses not only from the Stone Cabin HMA, but also from the Saulsbury HMA and Little Fish Lake wild horse areas.

It was never Colvin's intent that Stone Cabin Partnership would be confined within the West Stone Cabin Valley Unit without additional areas available for their use. Colvin has long recognized that year-long use by wild horses within the central region of the Stone Cabin Allotment caused serious competition between wild horses and Stone Cabin Partnership cattle, resulting in a need for the Partnership to increase grazing levels in the West Stone Cabin Valley. The net result of such year-long competition

between wild horses and Stone Cabin Partnership cattle has been a reduction in the productivity of forage within both the central region of the Stone Cabin Allotment and portions of the West Stone Cabin Valley.

Colvin desires that the negative impacts arising from year-long competition between wild horses and Stone Cabin Partnership cattle be remedied to allow for resource improvement in affected areas in the Stone Cabin Allotment. Therefore, Colvin's February 22, 2005 scoping comments recommended mitigation measures that would confine wild horses to the southeast side of the Caliente Railway. In a further effort to facilitate resource improvement in areas that have been affected by ongoing year-long competition between wild horses and Stone Cabin Partnership cattle in the Stone Cabin Allotment, Colvin's February 22, 2005 scoping comments recommended mitigation measures that would provide Stone Cabin Partnership with increased opportunities to schedule seasonal rest within the West Stone Cabin Valley by securing additional grazing resources for the Partnership within the Ralston and McKinney Tanks allotments north of US Highway 6.

To insure that the long-term intent of Colvin's February 22, 2005 scoping comments is realized without placing Stone Cabin Partnership at undue short-term risk, Colvin recommends that the following interim management provisions direct management in the Stone Cabin Allotment from the commencement of Caliente Railway construction until such time as all approved mitigation measures are implemented within the Stone Cabin and Ralston allotments.

Interim Management Provisions

Upon commencement of Caliente Railway construction within the Stone Cabin Allotment, Colvin shall be authorized to graze its full Stone Cabin Preference within the Ralston and McKinney Tanks Allotments until such time as construction of the fence on the northwest side of the railway is completed. During this period, Colvin shall be authorized to trail its cattle through the Stone Cabin Allotment during its moves between Wagon Johnnie and the Ralston/McKinney Tanks allotments, and the entire Ralston and McKinney Tanks allotments shall be available for Colvin's use to allow Colvin to schedule seasonal rest within these allotments as needed. Such grazing by Colvin in the Ralston and McKinney Tanks allotments shall be authorized through a term grazing permit granting the entire vacant preferences of said allotments to Colvin & Son, LLC as soon as possible. Until such term grazing permit is secured by Colvin, such grazing in the Ralston and McKinney Tanks allotments shall be authorized annually through Temporary Non-Renewable grazing authorizations. This interim management provision will reduce competition for forage within the Stone Cabin Allotment during the winter grazing period by moving the vast majority of Colvin's use into adjoining vacant allotments until such time as wild horses can be confined to the southeast side of the Caliente Railway. During this period, the entire Stone Cabin Allotment shall be available for use by the Stone Cabin Partnership.

After the fence on the northwest side of the railway is completed, all wild horse use within the Stone Cabin HMA, Saulsbury HMA, and Little Fish Lake wild horse areas shall be moved to the Kawich Unit (southeast of the railway), the Kawich Unit Appropriate Management Level shall be set to accommodate a maximum of 536 wild horses, and Appropriate Management Levels for wild horses north and west of the railway shall be set to zero. During this period, Colvin shall be allowed to schedule periodic winter use within the Stone Cabin Allotment, south half of the Ralston and McKinney Tanks Allotments, or north half of the Ralston and McKinney Tanks Allotments as needed. This interim management provision will reduce competition for forage within the Stone Cabin, Ralston, and Wagon Johnnie allotments by separating the wild horses from the cattle. It will further reduce competition for forage within the Stone Cabin Allotment during those periods that Colvin schedules to use the Ralston and McKinney Tanks Allotments. During this period, the entire Stone Cabin Allotment north and west of the railway shall be available for use by the Stone Cabin Partnership, but no cattle grazing shall be allowed within the Kawich Unit.

Upon completion of the highway fences, the West/East Stone Cabin Valley division fence, and all other approved mitigation measures, Colvin shall transfer the grazing preference associated with the portions of the Ralston and McKinney Tanks allotments to Stone Cabin Partnership and a range line agreement previously executed by both parties shall become effective. Thereafter, Stone Cabin Partnership shall have the West Stone Cabin Valley Unit, the North Ralston Unit, and the North McKinney Tanks Unit as exclusive use areas and Colvin shall have the East Stone Cabin Valley Unit, the Stone Cabin Valley Unit, the South Ralston Unit, and the South McKinney Tanks Unit as exclusive use areas. This interim management provision will insure that Stone Cabin Partnership is never confined to the West Stone Cabin Valley Unit without other areas available for their grazing use. Stone Cabin Partnership is thus assured that all of the approved mitigation measures are in place and the preference associated with the North Ralston and North McKinney Tanks Units is secured before the agreement regarding exclusive use areas within the Stone Cabin Allotment becomes effective.