

Legislative Committee on Public Lands

Friday, March 7, 2008

Discussion of the Impacts of the DOE Proposed Caliente Rail Corridor on Public Land Users and Potential Mitigation Options

Ronda Hornbeck, Chair, Board of Lincoln County Commissioners

Connie Simkins, Coordinator, Lincoln County Nuclear Oversight Program

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Involvement of Resource Concepts, Inc.

- 2005 Report prepared for BLM – Ely Field Office
 - Analysis of Impacts and Mitigations for Entire DOE Proposed Route
- 2007 Report prepared for Lincoln County
 - Analysis of Impacts and Mitigations for DOE Proposed Route within Lincoln County
- 2007 Draft EIS Comments prepared for:
 - Lincoln County
 - N-4 State Grazing Board
 - N-6 State Grazing Board



Issues and Impacts Evaluated in RCI Studies

Vegetation, Forage & AUM's

Grazing Allotments

Base Property

Water Rights, Stockwaters &
Associated Infrastructure

Grazing Systems & Planning

Right-of-Way Fencing

Roads & Trails

Existing Fencing & Capital
Improvements

Loss of Livestock

Construction

Maintenance

Wildlife & Wild Horses

Unavoidable Adverse Impacts

Vegetation, Forage...

1,000' Construction ROW
400' Operational ROW

DESIGN

2-73

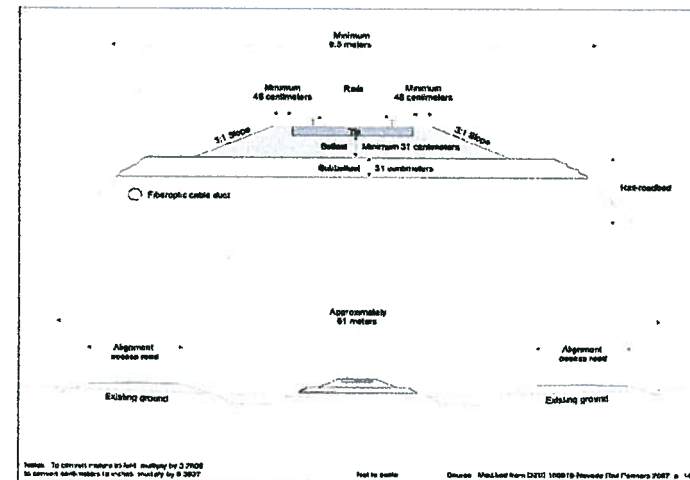


Figure 2-37. Cross-section of a typical rail and roadbed design.

PROJECT ACTION AND ALTERNATIVES

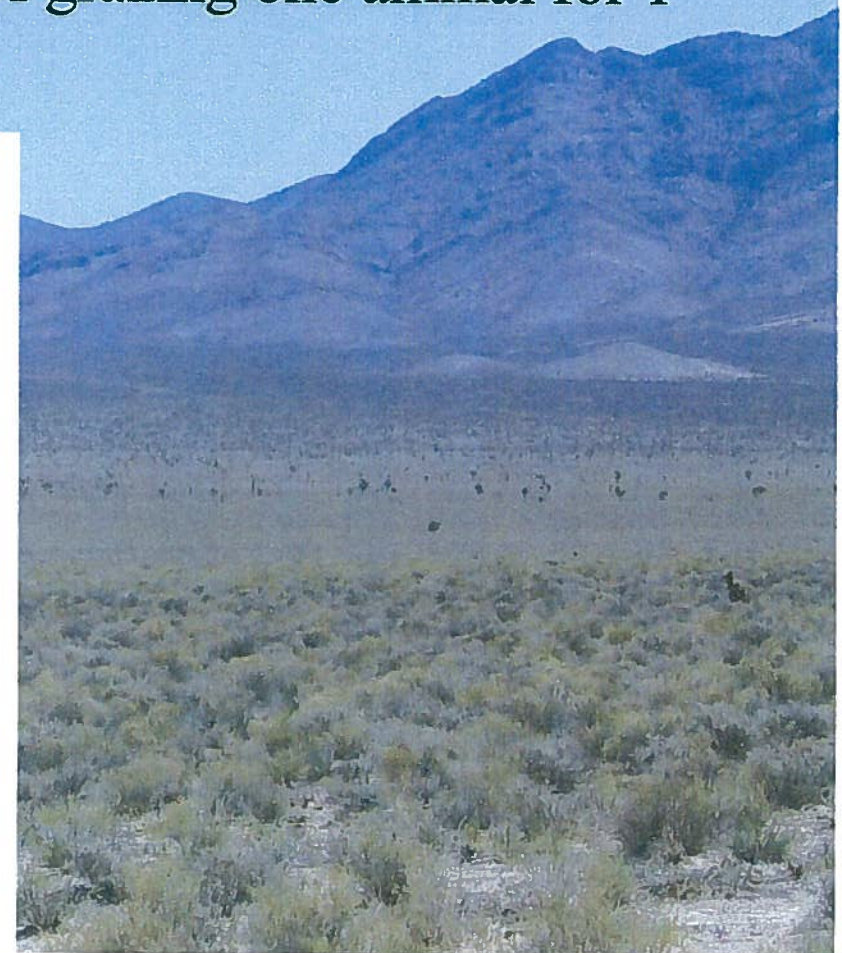
...and AUM's

Animal Unit Month – (1) A standardized unit of measurement of the amount of forage necessary for the complete sustenance of one animal for 1 month. (2) A unit of measurement of grazing privileges that represents the privilege of grazing one animal for 1 month. (DOE – DEIS Glossary)

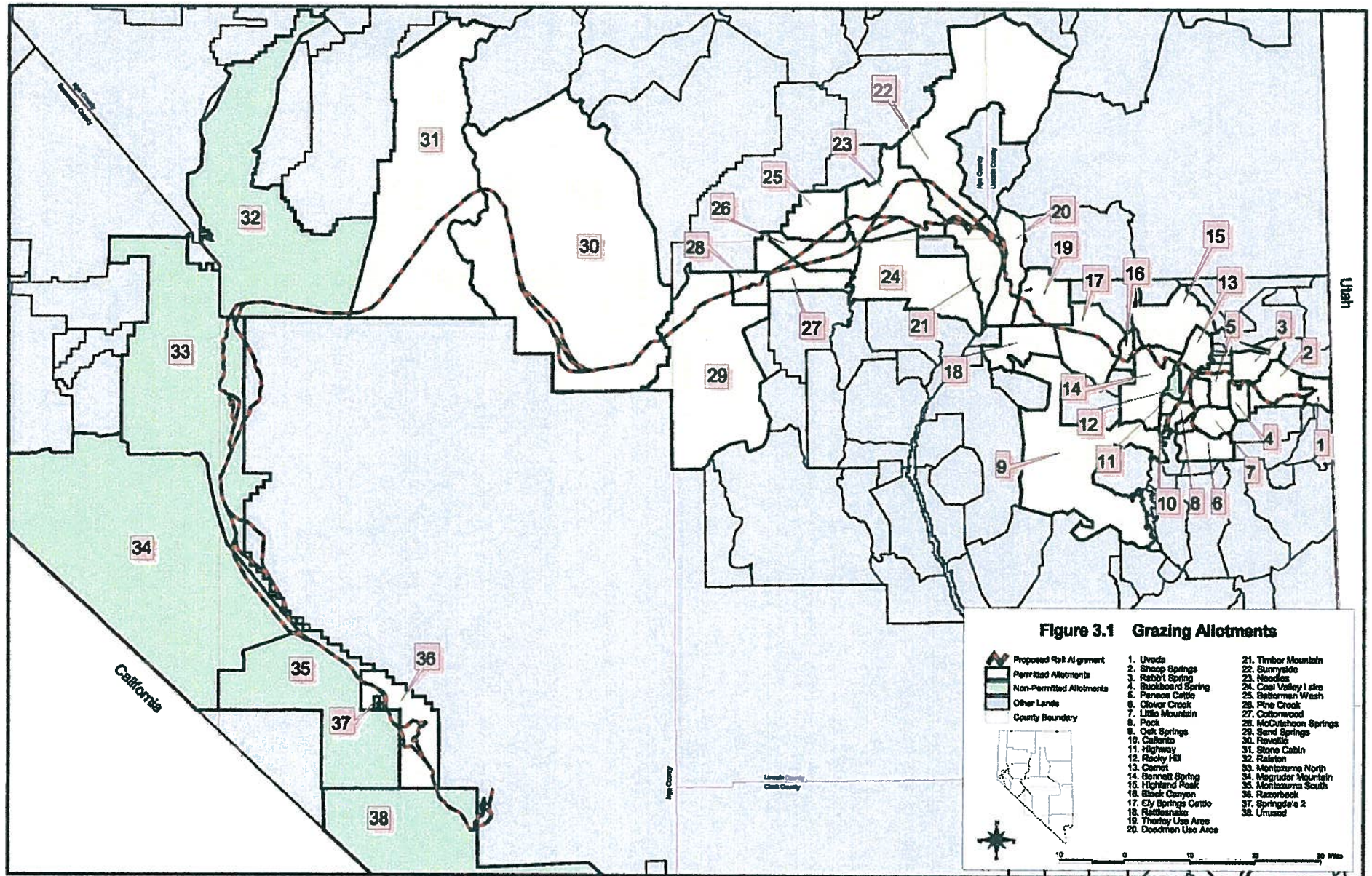
ENVIRONMENTAL IMPACTS – CALIENTE RAIL ALIGNMENT

Table 4-16. Potential loss of animal unit months associated with Caliente common segment 1.

Allotment	Construction right-of-way area or impact area (square kilometers) ^{a,b}	Current animal unit months (maximum) and allotment area ^c	Potential loss of animal unit months (as a direct correlation with land area removed)	Percent loss of animal unit months
Comet	1.1	214 on 37 square kilometers	6	2.8
Rocky Hill	0.2	Grazing permit relinquished to BLM	Not applicable	Not applicable
Bennett Spring	5.1	3,498 on 200 square kilometers	89	2.6
Black Canyon	1.6	1,105 on 34 square kilometers	52	4.7
Ely Springs Cattle	5.8	4,248 on 220 square kilometers	112	2.6
Rattlesnake	0.53	1,180 on 120 square kilometers	5	0.4
Wilson Creek	7.4	48,250 on 4,360 square kilometers	82	0.2
Timber Mountain	3.1	2,373 on 180 square kilometers	41	1.8
Sunnyside	5.5	5,402 on 890 square kilometers	33	0.6



Grazing Allotments



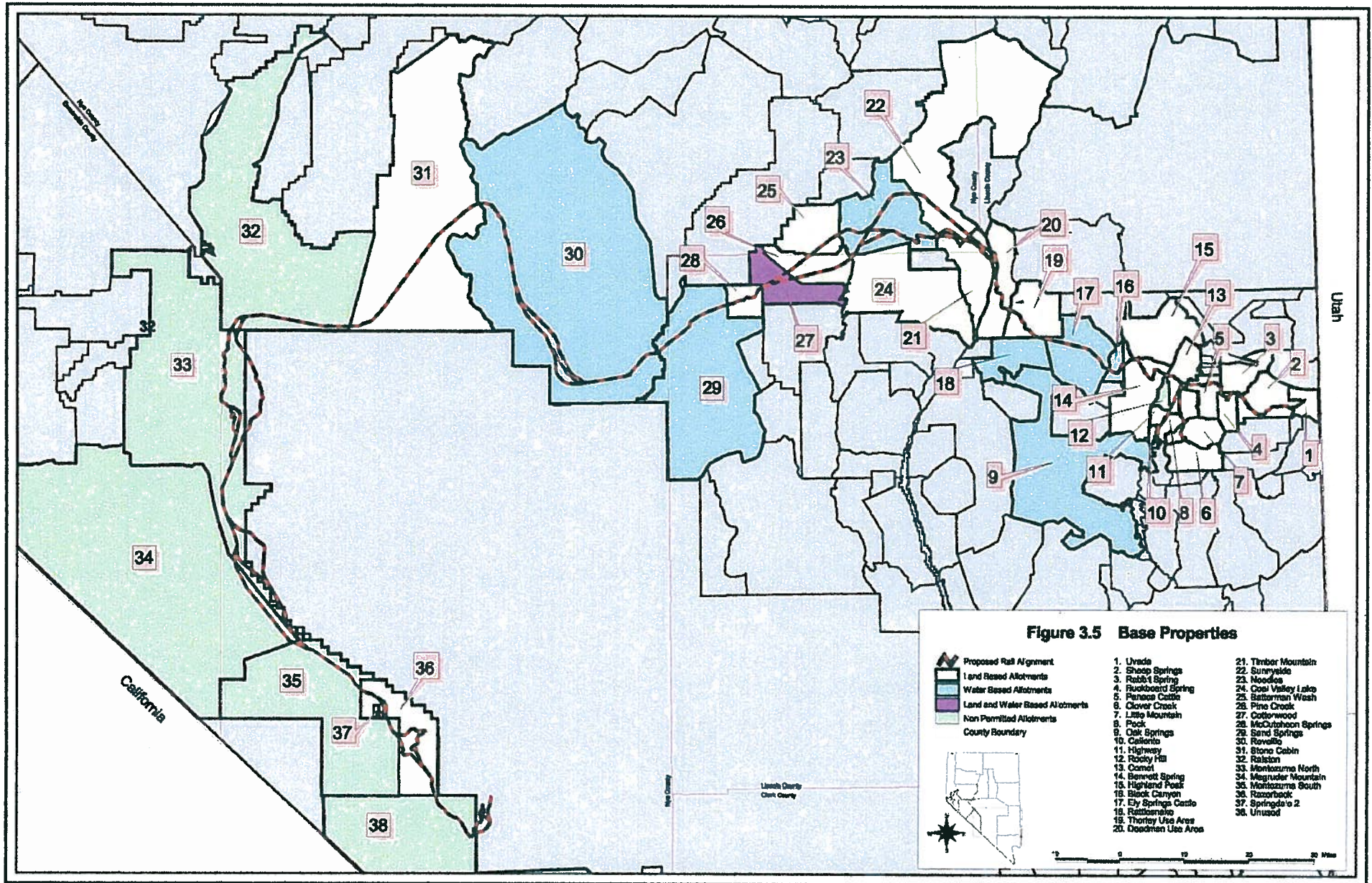
Base Property

The **Taylor Grazing Act** established the ownership of base property as a requirement for holding a grazing permit.

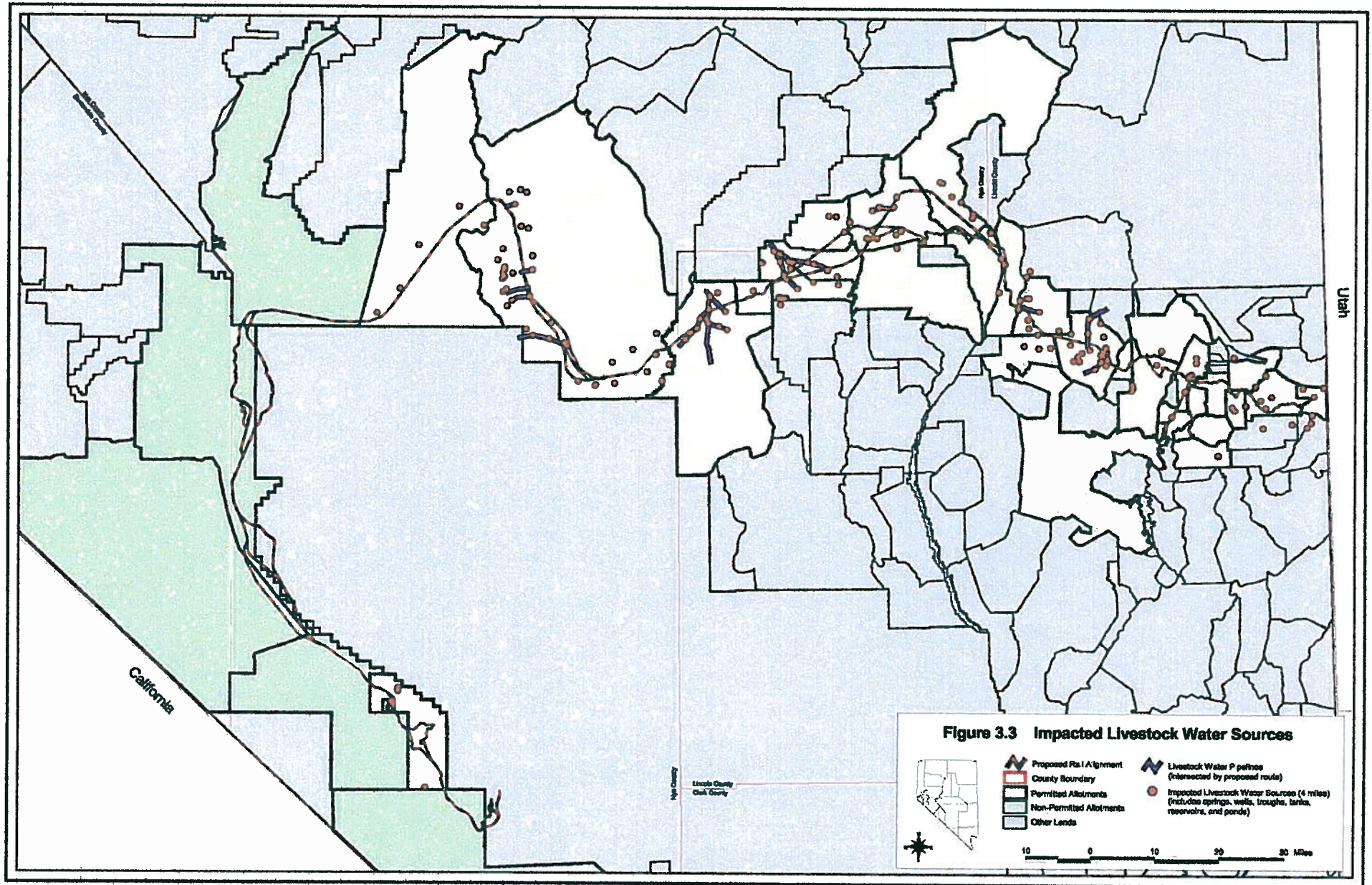
The Grazing Regulations interpret the Act in 43 CFR §4100.0-5:

“Base Property means: (1) **Land** that has the capability to produce crops or forage that can be used to support authorized livestock for a specified period of time, or (2) **water** that is suitable for consumption by livestock and is available and accessible to the authorized livestock when the public lands are used for grazing.

Base Property (cont.)



Water Rights, Stockwaters & Associated Infrastructure



DOE Identified Impacts to Stockwaters

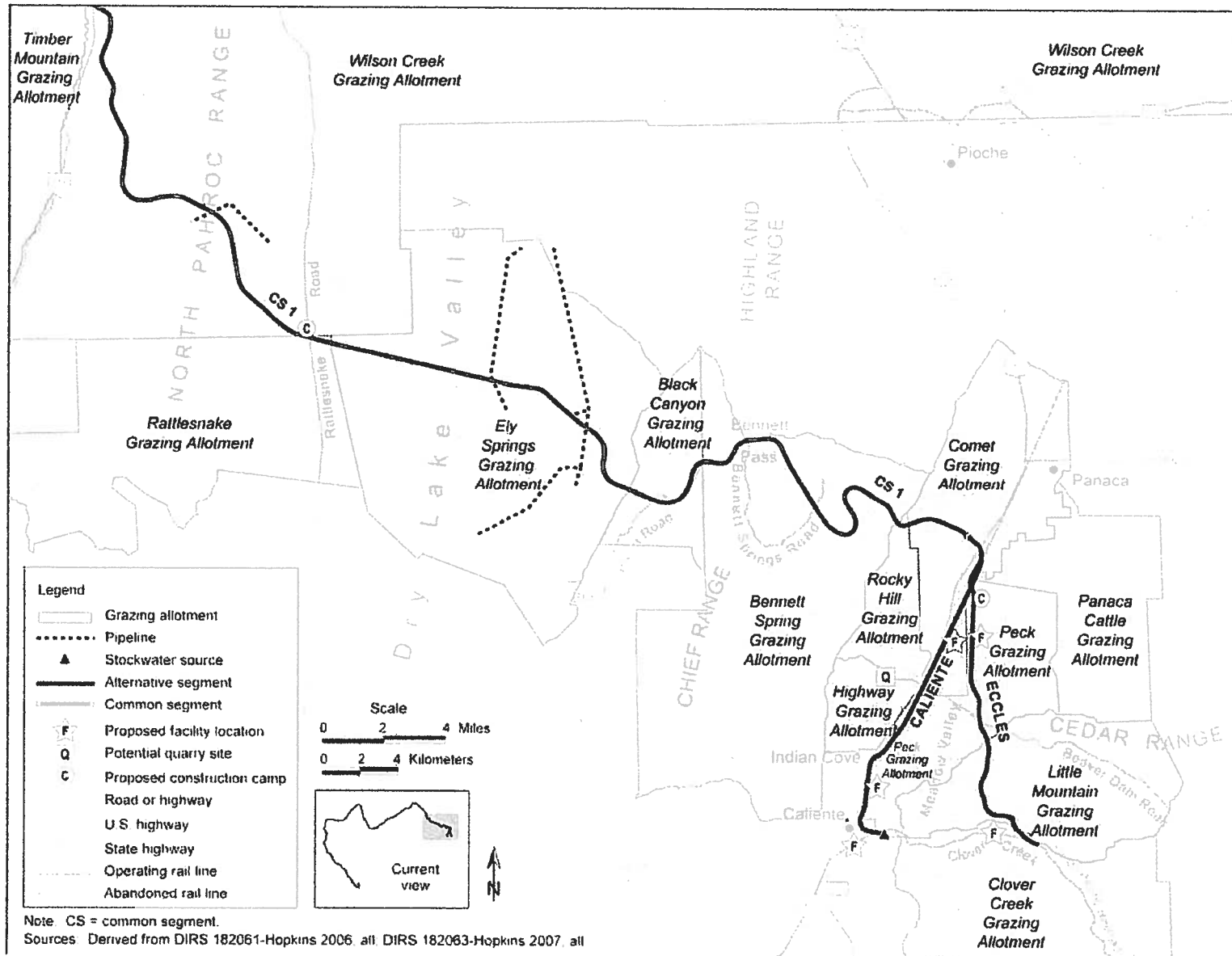
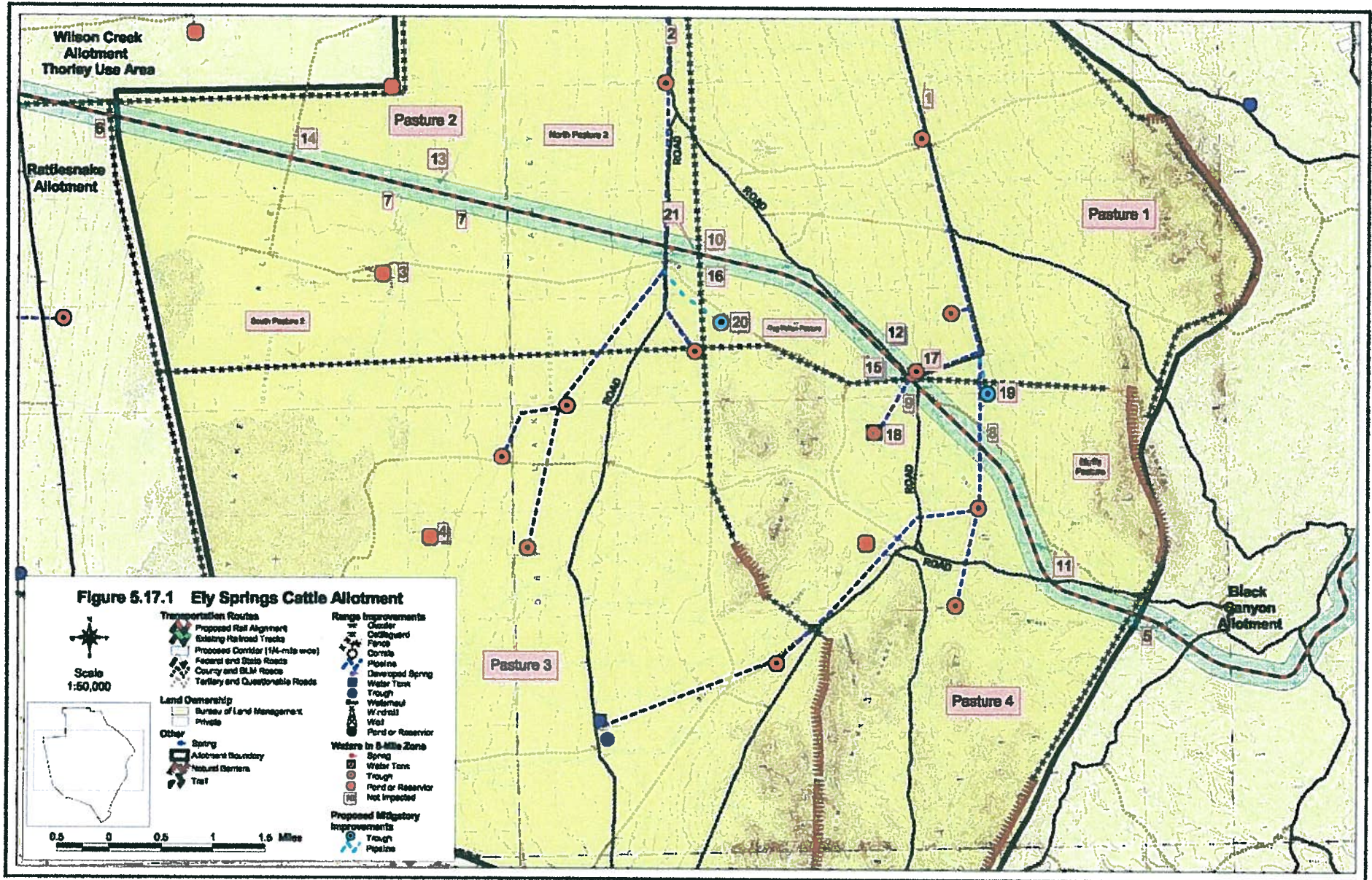
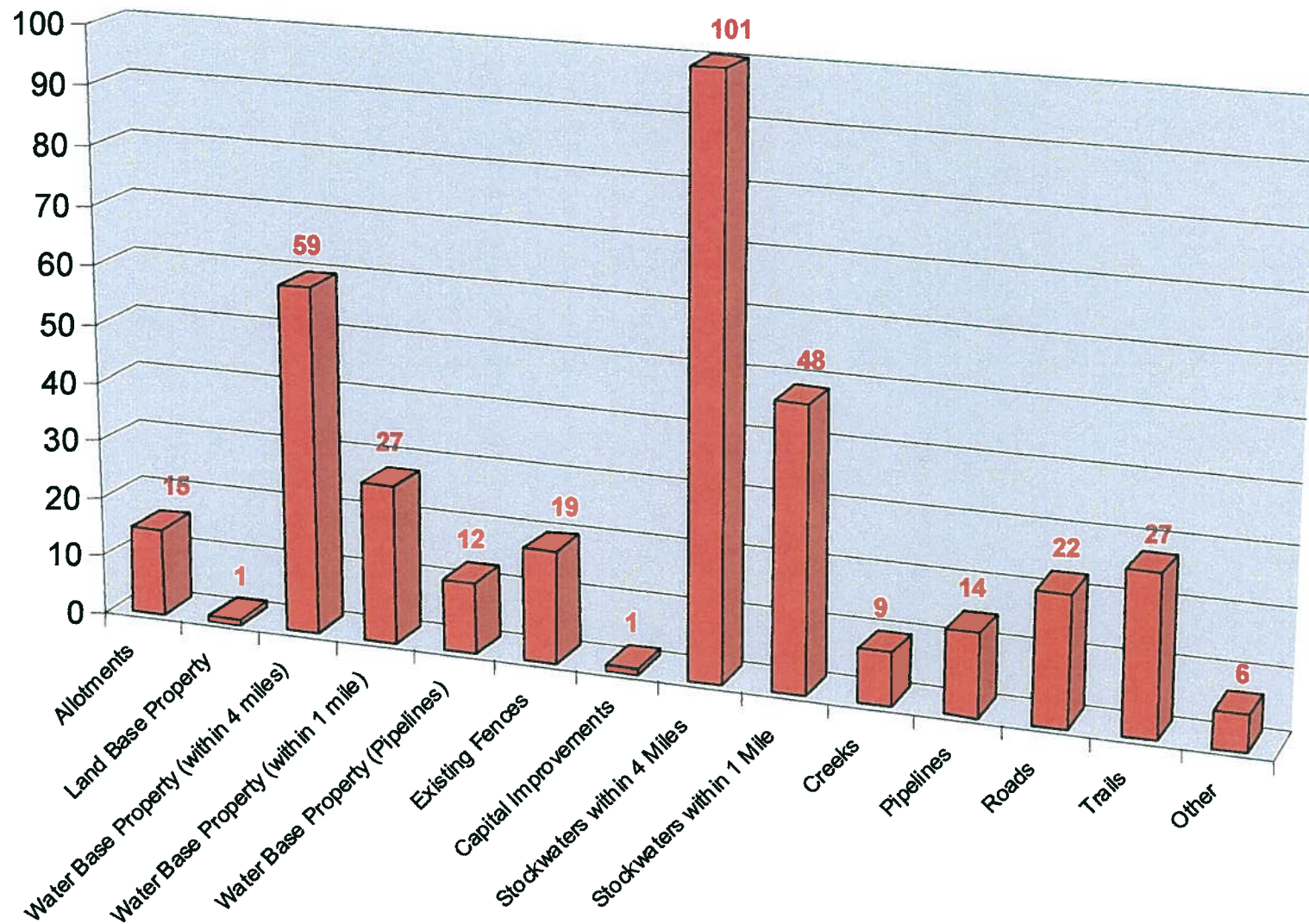


Figure 3-27. Grazing allotments with stockwater features within map area 1.

Grazing Systems & Planning



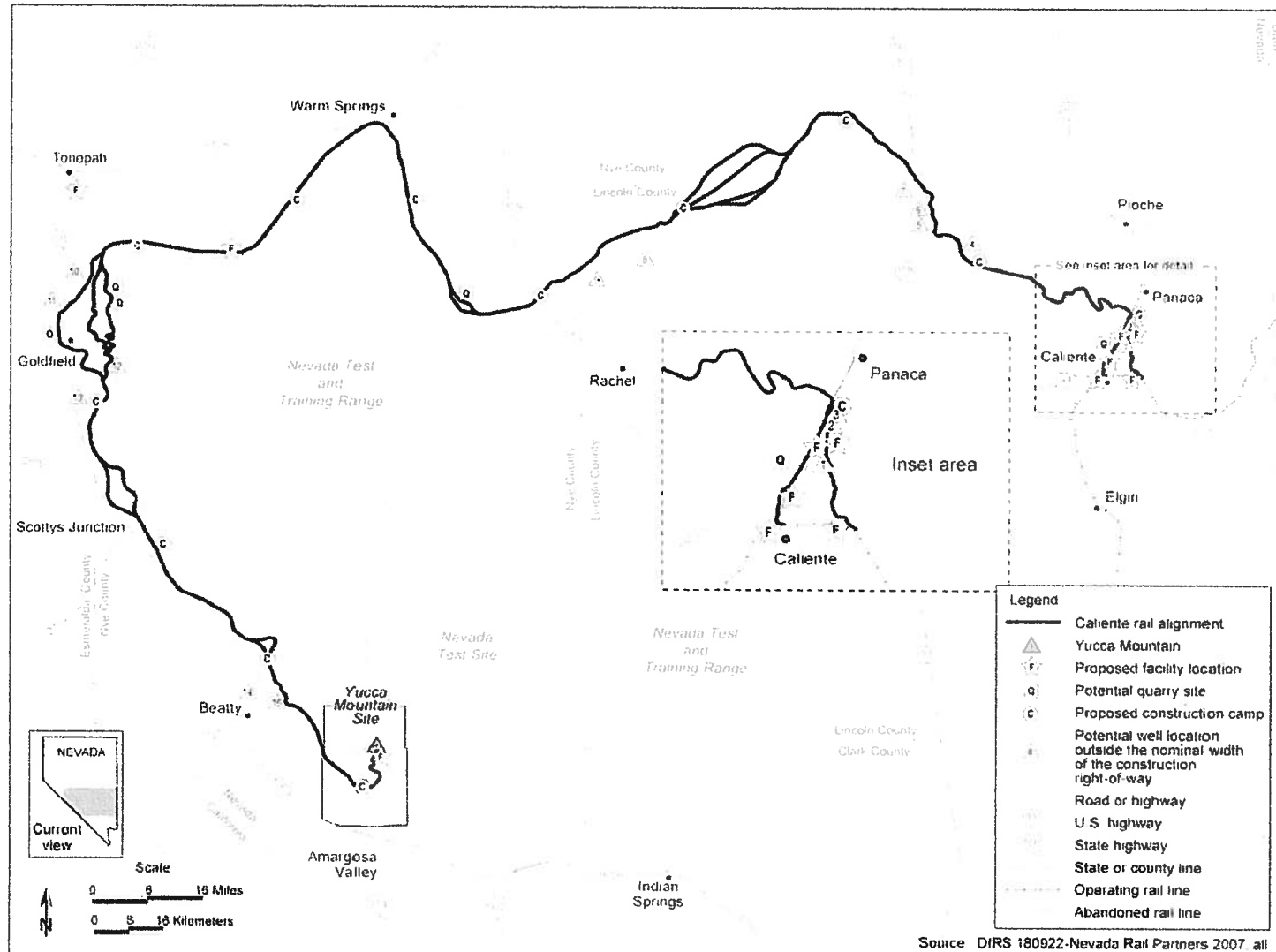
Impacts Summarized – DOE Preferred Alt. (2007 RCI Report – Lincoln County)



Additional Impacts

DOE/EIS-0369D

2-42



Source: DIRS 180922-Nevada Rail Partners 2007. All

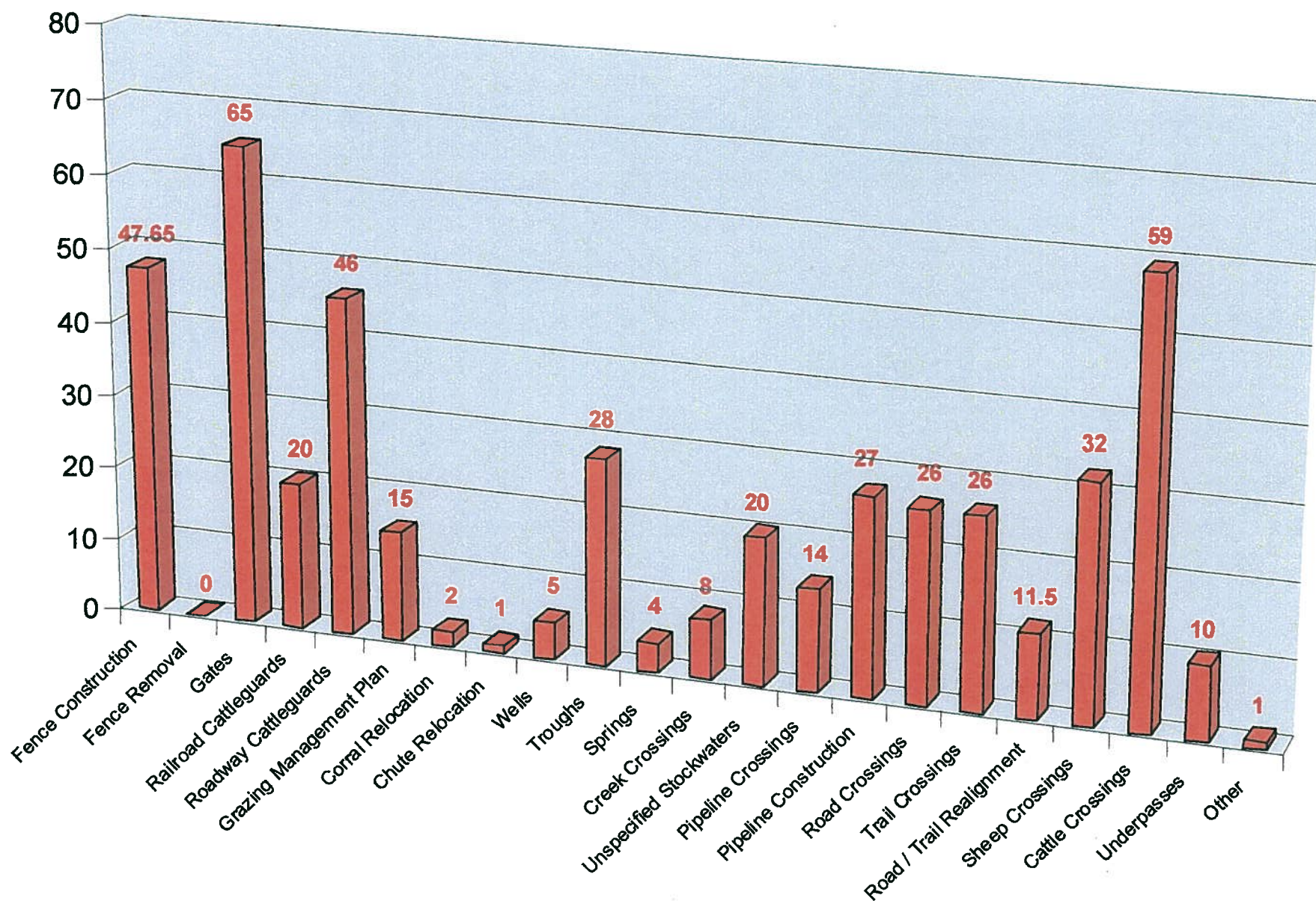
Figure 2-21. Potential quarry, water-well, and construction-camp locations along the Caliente rail alignment.

PROPOSED ACTION AND ALTERNATIVES

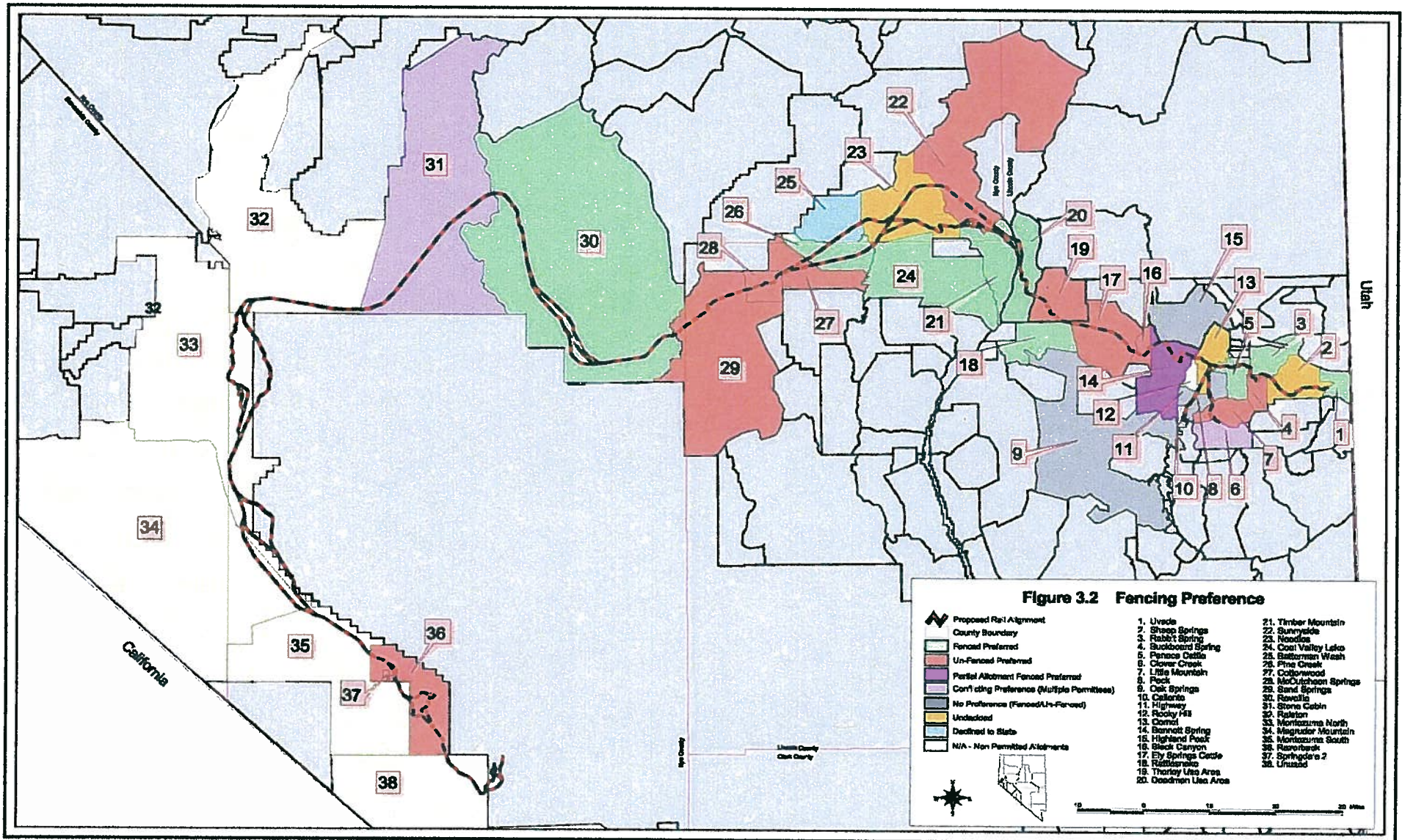
Summary of Impacts

- Impacts to public lands resources & users are of serious concern.
- DOE identified impacts are incomplete and underestimated.
- As a result, required mitigation will be insufficient.

Suggested Mitigation Summarized (2007 RCI Report – Lincoln County)



Right-of-Way Fencing



DOE Mitigation

Table 7-2. Potential measures to mitigate potential environmental impacts of constructing and operating the proposed railroad (page 1 of 3).

Environmental resource/project phase	Nature of potential impact	Mitigation measure	Agency jurisdiction	Location
<i>Physical Setting</i> (see Sections 4.2.1 and 4.3.1)				
Construction and operations	Human health risks attributed to <i>seismic</i> activities	During the construction and operations phases, adopt Railway Engineering and Maintenance-of-Way Association guidelines and implement monitoring procedures to reduce the potential for structural damage and human exposure to seismic hazards. DOE would make use of seismic monitoring with regional networks; early warning systems to identify track disruption; and track inspections immediately before transit of the trains.	DOE ^a	Site-specific as determined through seismic and geotechnical investigations.
<i>Land Use and Ownership</i> (see Sections 4.2.2 and 4.3.2)				
Construction	Land-use conflict	Notify nearby mining lessees/claimants and consult with owners of active local mines and <i>mining claims</i> to ensure that impacts to mine-related operations are minimized during construction activities.	DOE and BLM ^a	Site-specific dependent upon the locations of mining claims and active mines.
Construction and operations	Segmenting wildlife habitat	Limit fencing on public lands to those areas where safety is a concern, or where it is required for the safety of livestock.	DOE and BLM	Site-specific as determined through coordination with permittees and the BLM.
Construction	Construction schedule	To the extent practicable, minimize the number of road closures due to construction, and limit detours to one mile or less. DOE would inform the public of road closures through various media outlets.	DOE and BLM	Site-specific dependent upon the locations of road closures.
<i>Air Quality and Climate</i> (see Sections 4.2.4 and 4.3.4)				
Operations	Air quality impacts associated with quarries	Acquire additional land and move the public access (fence line) farther away from the quarries.	DOE	Site-specific quarry locations.

DOE/EIS-0369D

7-16

BEST MANAGEMENT PRACTICES AND MITIGATION

DOE Mitigation (cont.)

- “Small” long-term impacts as disturbed land will be “restored”
- BLM will determine AUM loss as part of Right-of-Way Grant
- DOE will consult with BLM during final design to determine where right-of-way fencing is required
- DOE (or commercial carrier) will reimburse ranchers for livestock struck by trains
- BLM & DOE will review the need to restore fence
- Generally livestock will acclimate to rail
- DOE will case existing pipelines

Summary of Mitigation

- Mitigations identified in DEIS are inadequate & vague
 - “Small” Scope = “Small” Impacts = “Small” Mitigation
 - No Allotment Specific Input
- No universal process outlined for identifying and carrying out mitigation
 - Must include input from impacted parties.

**Mike Baughman, Ph.D.,
President, Intertech Services
Corporation**

Impacts to Other Public Land Uses in Lincoln County

- **Utility Corridors**
 - Lincoln County Water District
 - Lincoln County Power District No. 1
- **Access**
 - County Roads
 - Public Land Users (mining, energy development, recreation)
- **Wildlife**
 - Direct Loss of Habitat & Water Resources
 - Fragmentation & Obstruction of Movement Corridors
- **Lands Designated for Disposal Pursuant to Lincoln County Conservation, Recreation and Development Act**

Venues for Securing Commitments for Mitigation of Caliente Rail Alignment Impacts

- Department of Energy
 - Nevada Rail Alignment Final Environmental Impact Statement (FEIS)
 - Nevada Rail Alignment FEIS Record of Decision
 - Nevada Rail Alignment FEIS Mitigation Action Plan
 - Cooperative Agreements

Venues for Securing Commitments for Mitigation of Caliente Rail Alignment Impacts

- Nuclear Regulatory Commission
 - Conditions to license to construct and/or operate the Yucca Mountain Geologic Repository site issued to Department of Energy
- Surface Transportation Board
 - Conditions to Certificate of Conveyance issued to Department of Energy to allow commercial use of Caliente Rail Alignment

Venues for Securing Commitments for Mitigation of Caliente Rail Alignment Impacts

- Bureau of Land Management
 - Caliente Rail Alignment Right-of-Way FEIS
 - Caliente Rail Alignment ROW FEIS Record of Decision
 - Construction, Operations and Maintenance Plan Required by BLM
 - Conditions to ROW grant issued to Department of Energy for Caliente Rail Alignment

Mitigation Issues

- **Timing**
 - Many mitigation measures must be implemented in advance of impacts (pre-construction) to be fully effective.
 - Establishment of vegetation (alternate forage sources)
 - New or relocated water sources (livestock familiarization)
- **Planning**
 - BLM may require preparation of new or revision of existing Allotment Management Plans and/or approvals for mitigation actions
 - requires time and money to complete
 - resultant land use decisions by BLM can be appealed to Interior Board of Land Appeals by opponents of the Yucca Mtn. project and/or opponents to public land grazing.

Mitigation Issues (cont.)

- **Implementation- Legal and Administrative**
 - Environmental or regulatory clearances for mitigation projects
 - NEPA, National Historic Preservation Act, Endangered Species Act
 - Water rights (conversion of temporary construction rights to stock water & transfer thereof from DOE to grazing permittees or others.)
- **Funding**
 - Department of Energy must secure adequate annual Congressional appropriations to cover costs of planning, design, implementation, monitoring, and maintenance of mitigation.

Recommendations

1. LCB staff research administrative / legal constraints to conversion of temporary construction rights to stock or wildlife water and transfer thereof from DOE to grazing permittees or other pertinent entities; report back to Committee at subsequent meeting.

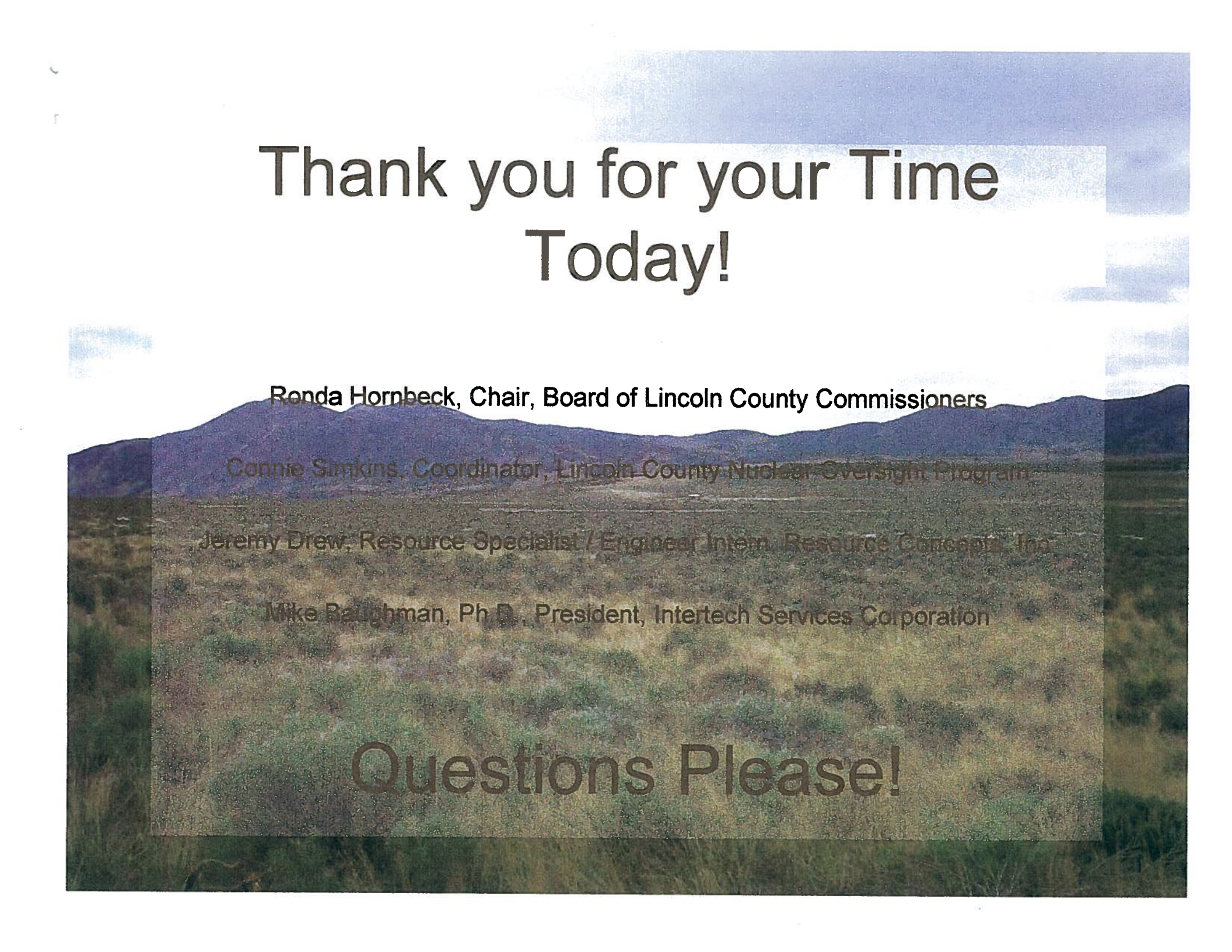
Recommendations (cont.)

2. Committee letter to DOE encouraging:

- A. Every practical effort is made to minimize the project disturbance area, and maintain access to public lands for all users.**
- B. Obtain required information (soils, plant materials, etc.), and develop detailed restoration plans.**
- C. No net loss of public land grazing (animal unit months) on any allotment impacted by the Caliente Rail project.**
- D. Invitation of the N-4 & N-6 State Grazing Boards to participate as Cooperating Agencies in preparation of Nevada Rail Alignment FEIS and/or increased input of individual permittees in identification of impacts and needed mitigation.**
- E. Initiation of planning and seek funding for planning AND implementation of Caliente Rail related mitigation immediately following issuance by DOE of related ROD.**
- F. Inclusion of aforementioned recommendations to be included in the Nevada Rail Alignment FEIS.**

Recommendations (cont.)

3. Committee letter to BLM encouraging:
 - A. Supplemental NEPA analysis be completed to support BLM decision to grant DOE request for ROW to construct and operate Caliente Rail.
 - B. Early and sustained inclusion of impacted public land users and local government in identifying impacts & required mitigation planning.
 - C. Maintain current level of public land access for all users.
 - D. No net loss of public land grazing (animal unit months) on any allotment impacted by the Caliente Rail project.



Thank you for your Time Today!

Ronda Hornbeck, Chair, Board of Lincoln County Commissioners

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Questions Please!