

To Whom It May Concern:

As two of the current owners of a 150+-year-old cattle ranch, we (Kena Lytle Gloeckner and Pat Gloeckner) have some grave concerns with the SNWA pipeline project. Of the four specific remand orders, we are particularly concerned with amount of water appropriated for Dry Lake Valley and the 3M plan developed by the authority. We tend to fully agree with Judge Estes on his remand that the State Water Engineer's office needs to recalculate the appropriations for the valleys, especially Dry Lake Valley which serves as our winter grazing allotment and with which we are most familiar. In our opinion, the current allocations are way too high. We also believe the 3M plan developed by SNWA is nebulous, embellished, and inadequate.

Within the Dry Lake Valley, the Lytle family has held the water rights to various springs and wells used in the cattle operation throughout the past 130+ years. Currently we are almost finished with updating these vested and certificated rights that include the following: V01287, V01288, V01289, V01290, V01294, V01297, V01299, V01300, V01302, V01295, V11229, V11230, V11231, V10216, V10217, App. 5200, App. 18756, and App. Numbers 84786, 84787, 84788, 84789, and 84790 protested by SNWA.

The amount of water requested in Dry Lake Valley has never been reduced since the original submission of SNWA's applications. In our opinion, three of these springs referenced above, Simpson Springs 1 and 2 (originally V01134 with a priority date of 1893 and V01135 with a priority date of 1885) and Blind Springs (originally V01250 with a priority date of 1893) serve as the perfect examples to illustrate the delicate nature of the springs and wells in the valley and the need for a closer inspection of the amount of water appropriated. In the years since then, these springs have served our cattle well. In 2004, we, along with two other cattle ranchers, completed an updated pipeline project costing several thousands of dollars at Simpson Spring. The spring was in good running order.

Beginning around 2011, we believe, Vidler Water began pumping water to support about 270 acres of alfalfa via pivot sprinkler systems using underground water in the Ely Springs area just to the south of Simpson. We believe Vidler pumped these two wells from 2011-2014 during the months of April through September (please refer to the meter readings filed in your office for more accurate details). Soon after the pumping began, the flow at Simpson Spring began to diminish. Eventually, we were no longer able to obtain any sufficient stock water from this source. See **Exhibit One** - a report, complete with pictures, compiled on August 28, 2015, by Ryan Kay, a rangeland management specialist for the Bureau of Land Management.

Once Vidler ceased pumping the wells, we worked hard at Simpson Spring to try to reestablish the surface water. Finally, in the early spring of 2017, we were able to

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obtain a little surface water once again. See **Exhibit Two** – a picture taken on March 3, 2017, showing surface water at Simpson Spring.

In addition to over appropriation of the water in Dry Lake Valley, we also have some grave concerns with SNWA's 3M plan. In the plan (specifically outlined in their Exhibit 507), a conflict is outlined to occur when, "as a result of water use by a junior water right holder a senior water right holder cannot access the specific quantity of water for the legally approved beneficial use." Obviously, in our opinion supported by evidence, a conflict has already occurred in Dry Lake Valley before SNWA pumping has even begun. It is extremely probable that a much more profound conflict will occur if the large scale pumping in Dry Lake Valley is approved for current allocations.

Furthermore, the plan seems to be embellished with vague, nonspecific determinations, calculations, and actions. For example, when this report begins to address threshold and triggers, too many questionable variables exist. There are investigation triggers that prompt investigation actions and MAY implement preemptive management actions based on investigation findings. Additionally, activation triggers can prompt three types of actions: investigation actions, management actions, and mitigation actions. Our questions are who exactly is in charge of investigations, who determines if we have arrived at a threshold, at which point exactly is a trigger identified, who decides which type of actions should be implemented, etc.? Most importantly, how long will this entire process take if our senior water rights have been compromised? In the Simpson Spring scenario described above, at what point in the process does the dry spring bed fall? There are thousands of cattle and sheep throughout these four valleys, and, if even one vital water source is compromised for just a short period of time, what is to happen to these thousands of animals; furthermore, what if the situation occurs in the dead of winter where snowfall makes rescuing the animals impossible?

Additionally, **Exhibit Three** is a map illustrating our senior water rights in Dry Lake Valley (circled in red) and SNWA's (circled in blue). It obviously differs greatly from the map presented in figure 9-1 of Exhibit 507. These are just our family's water rights in a small section of the map with several original priority dates in the 1800s. Again, the picture painted is one that is deceptive and inaccurate. What other senior water rights belonging to others were omitted from the exhibits? Also, SNWA has omitted the five reservoirs throughout the valley bottom serviced from the Fairview Spring pipeline (Fairview Spring is identified as a possible affected spring). These reservoirs open up over 170,000 acres of additional forage for livestock, wild horses, and wildlife that have become dependent upon this vast area and the resources; as such, they should definitely not be disregarded.

In 2008, we (Ken Lytle and Kena Gloeckner) testified during the water hearings and outlined what we believed to be the potential detrimental impacts of SNWA's proposed pipeline both in terms of forage and of water to our 150-year-old family cattle ranching operation which relies heavily upon Dry Lake Valley as our only

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winter use area. When we were finished with our presentation, Jason King asked Mr. Taggart what measures SNWA had in place if their pumping began to interfere with the senior water right holders. Mr. Taggart replied, "They can take us to court just like anyone else." The problem with this scenario is that the ordinary ranching family can rarely afford to battle any kind of agency who has constant access to a team of attorneys funded by ratepayers or taxpayers' money. The tables are just stacked too highly against us in terms of legal resources and finances. The burden should never be placed upon the senior water right holder. Therefore, it is essential that the State Water Engineer deny this entire project or allocate on the side of extreme conservatism.

Throughout the original hearings and in the years since, SNWA has assured your office and the general public to "trust us" in relation to their 3M plan. In our opinion, the plan is filled with wordy and vague text and promises instead of definitions clearing delineating triggers and thresholds and the mitigation that will result WHEN and IF some indefinite power (which should never be SNWA) determines that we have arrived at that point. We personally need to have specifics put in place because the "trust us" mentality does not work for us based on a barrage of unresolved grazing, water, and resource management problems we have experienced with this agency over almost a decade. Below are some of the many instances of the current chaos we have experienced that could parallel what SNWA's 3M plan might look like.

Since SNWA bought the El Tejon Ranch, we have operated in common with their sheep herds in Dry Lake Valley – a situation that has become a total nightmare both in terms of water right issues and forage rights. We believe the State Water Engineer should be made aware of these issues since they are so intricately tied to the water – without our water rights, we have no resources to use the forage; without the forage, we have no resources to prove beneficial use of the water. Because of this interconnection, the forefathers of Nevada saw the essential relationship and thus created **NRS 533.495, 533.503, 533.505**, and other statutes to prevent this type of infringement on a right secured before that of another.

For well over a hundred years, the sheepmen in the valley operated only on the far west bench (the location of their only water right). The entire east side and valley bottom has always been used by the cattlemen (the location of our water rights). In 1963, the APW Well was established as a range improvement paid for by the members of the Westside Cattle Company. Because of the close proximity of this well to Coyote Springs (owned by the sheepmen), cattle began to drift into the area used by the sheep during winter conditions. In an act of good faith to compensate for this cattle drift, the 1963 Rangeline Agreement was signed by both the cattlemen and sheepmen and again stipulated that the sheep would remain west of the rangeline and the cattle east. It also specified that **when mutually agreed** during severe winters, the cattle would be allowed to graze west of the above line and the sheepmen would be compensated by being allowed up to two weeks use south of Bristol Wells and east of the Grey Hills. SNWA feels they are bound by no

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agreements and can run their sheep anywhere they wish in the entire valley. Attached is one of SNWA's satellite tracking maps (**Exhibit Four**). Each dot represents one collared sheep per 1000 and each color represents a different time period. You can see that the two-week period stipulated in the '63 agreement turned in to use from December 26 through February 23 and encompassed an extremely large area of our range far beyond the specified "south of Bristol Well and east of the Grey Hills [dotted in blue]." The map reveals their sheep on Scotty Spring in large numbers.

This map also depicts another problem we have experienced. When the authority did move to the west side of the valley, instead of moving their sheep in an east/west fashion (up to the foothills in the evening, down to the grasses during daytime) as all previous sheepmen had done, they kept their herds on a constant north/south repeated movement for several months. Since the herders rely upon numerous Great Pureness dogs to control both their herds and predators, the dogs also ensured that our cattle did not graze the areas anywhere close to the herds on the west side of our range. After numerous reports of these dogs killing our newborn calves, we finally had to attend a meeting at the Ely BLM office in hopes of resolving this issue.

During another visit to Dry Lake Valley, upon driving up to our enclosed water lot at our northern reservoir, we found the entire enclosure was filled with sheep drinking water from the pond, and thousands of sheep filled the valley bottom and grazed on the white sage present on our range. When Kena called Bernard Peterson, SNWA's ranch manager, and informed him of the problem, he said, "Honey, if you believe my sheep need to stay beyond some imaginary line, you are dreaming. My sheep can graze anywhere they want between Highway 318 and Highway 93."

When the BLM finally issued a letter telling SNWA they were to graze on the west bench (historic sheep range colored in blue) and only use two weeks behind the Gray Hills, we received a 200-page protest filed in the BLM Office of Appeals. Included was the following map revealing their intentions for Dry Lake Valley (**Exhibit Five**). You can now see that what originally began as an act of good faith on the part of the cattlemen in 1963, has given SNWA a sense of entitlement – they now are proposing two fences in Dry Lake Valley – one near the original 1963 rangeline and a second one on the east side of the valley fencing cattle off an extremely large portion of our range that we have used almost exclusively for over 130+ years – 60,873 acres. Also notice that the portion colored in red includes our waters at Blind Spring, Simpson Spring, the Bristol Well, and the infrastructure of our pipeline. If you keep in mind the current corridor established for power transmission lines and for the possible SNWA pipeline through this valley (white area reserved for us in the middle), you can see that basically we do not have much range left. Thus, we are removed from the "ball game" before it even begins so that SNWA does not have to worry about applying the 3M Plan if the senior water right holders no longer exist.

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SNWA has also attempted to compromise our ability to get five water rights updated on the basis that the application would conflict with existing rights (untrue), that it would threaten to prove detrimental to the public interest, that they need to protest to secure a seat at the table for discussion of water management issues, and that the application requests nine times more water than can be beneficially used by 905 cattle. Please see SNWA's protest on applications 84786-84790 and our answer to these protests which clearly outlines what we believe was an error made by the State Water Engineer's office in the original applications submitted in 1978. Lytle and Delmue, whose names were on the original application, should have also been notified of the need for a corrected map; but instead, were completely omitted from the correction process.

Throughout this entire period of conflict dealing with both range and water issues, we have been forced to hire attorneys costing thousands of dollars, attend SNWA board meetings to call attention to this problem, attend a special meeting with SNWA upper management, seek the assistance of the local government and attorneys for Lincoln County who also met with SNWA, and work with a hired facilitator at the BLM. All of these efforts have proved futile.

In conclusion, at the end of our oral comments on September 29, 2017, Jason King asked if we had filed a "Request to Investigate Alleged Violation" with the State Water Engineer's office detailing that Simpson Spring had been affected by Vidler's pumping. We commented that the spring's diminished flow was a very gradual occurrence. In fact, we really weren't sure what was happening. This very circumstance is what we fear - that our vital waters will begin to gradually diminish until their delicate nature has been compromised and it then becomes too late to correct the balance. Once that water finds its way to Las Vegas, will the water be cut off to those who have become dependent upon it? Years of data compilation must occur first on every spring to determine a baseline flow rate. And then only the smallest increments of water need to be approved to ensure that an entire portion of the state of Nevada is not destroyed, along with the livelihoods of many. Furthermore, SNWA has had years to perfect their 3M Plan and has failed to do so. Most importantly, a neutral third party that includes ALL stakeholders must be hired to control the plan, not SNWA. As the old axiom goes, "The fox can not be in charge of guarding the hen house." The only reasonable and safe decision the state water engineer can make at this point is to appropriate such a small amount of water that the decision would make an already uneconomically sound pipeline project even more so.

Thank you very much for your consideration of these comments.

Sincerely,

Pat and Kena Gloeckner

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From: Kay, Ryan rmkay@blm.gov
Subject: Simpson Spring August 2015
Date: Sep 22, 2017, 12:54:16 PM
To: Kena Gloeckner kenagloc@yahoo.com

On August 28, 2015, I visited Simpson Spring to do an inspection on the Riparian Exclosure. The exclosure was in good condition. I took a photo of the spring source, where the head box is located. There was no surface water at or near the spring source. The area also lacked the riparian obligate plant species to indicate that there was any substantial surface or subsurface water during the last several years. The presence of upland plant species such as Wyoming sagebrush and Rabbitbrush near the spring also indicate a lack of water.

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Ryan Kay
Rangeland Management Specialist
US Department of the Interior
Bureau of Land Management
Bristlecone Field Office
775-289-1856



Exhibit Two

From: Kena Gloeckner kenagloc@yahoo.com
Subject: Simpson Spring March 3, 3017
Date: Sep 27, 2017, 08:04:01
To: Pat Gloeckner flyinghranch@yahoo.com



Sent from my iPhone

Exhibit Three

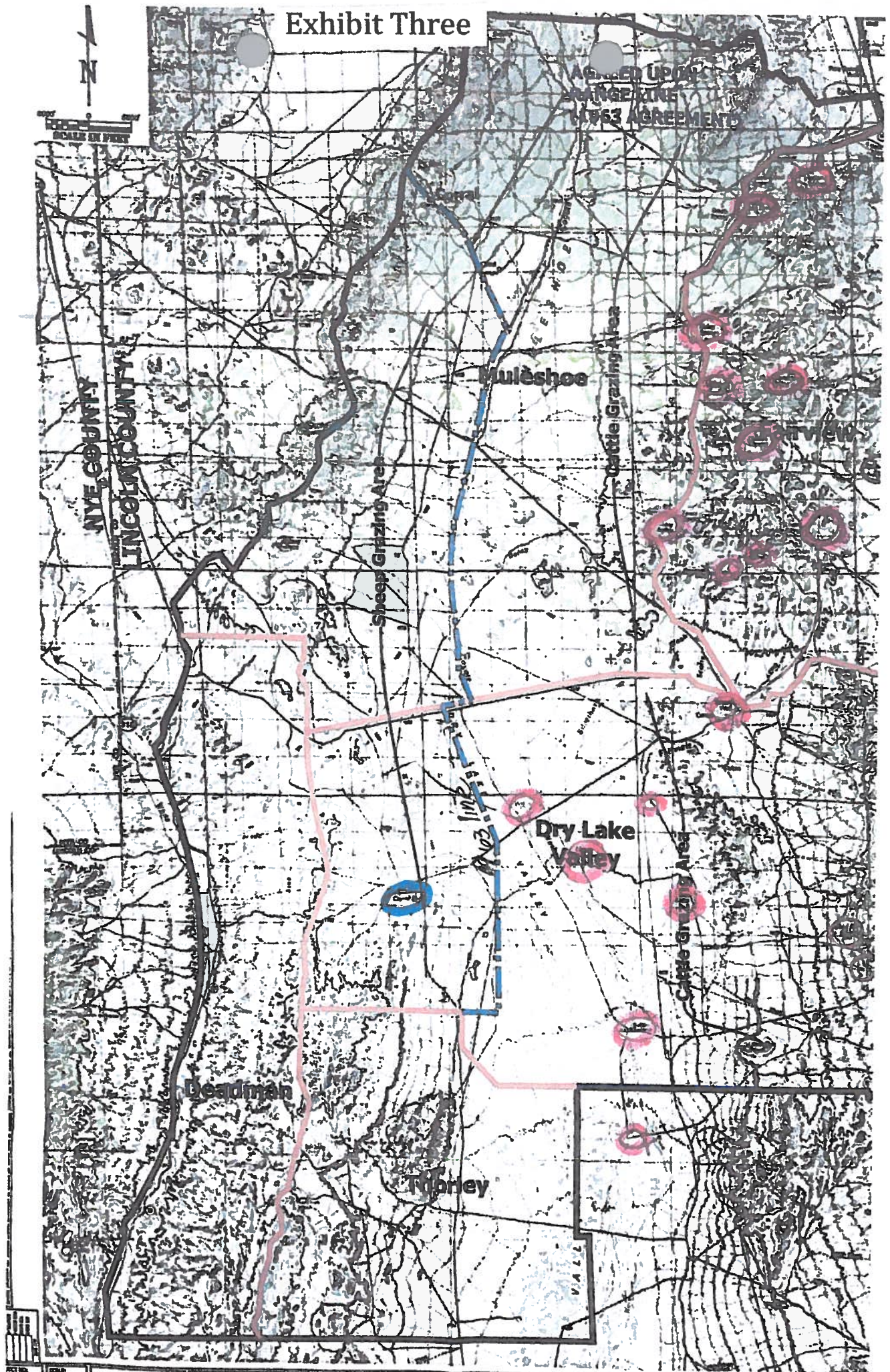
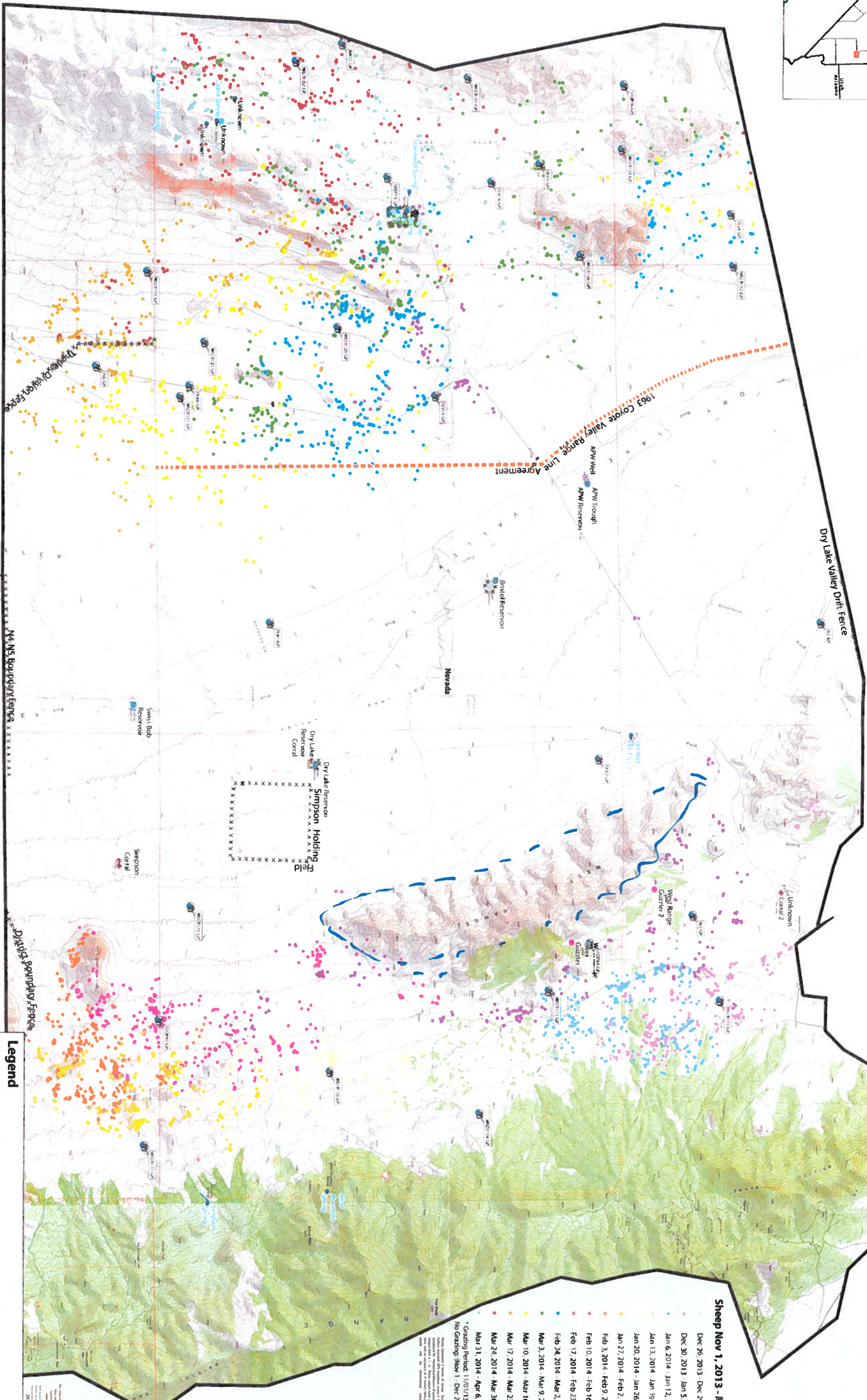
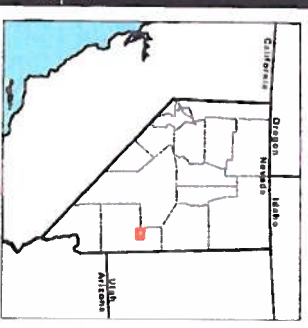


Exhibit Four



Sheep Nov 1, 2013 - May 1, 2014*

- Dec 26, 2013 - Dec 29, 2013
 - Dec 30, 2013 - Jan 5, 2014
 - Jan 6, 2014 - Jan 12, 2014
 - Jan 13, 2014 - Jan 19, 2014
 - Jan 20, 2014 - Jan 26, 2014
 - Jan 27, 2014 - Feb 2, 2014
 - Feb 3, 2014 - Feb 9, 2014
 - Feb 10, 2014 - Feb 16, 2014
 - Feb 17, 2014 - Feb 23, 2014
 - Feb 24, 2014 - Mar 2, 2014
 - Mar 3, 2014 - Mar 9, 2014
 - Mar 10, 2014 - Mar 16, 2014
 - Mar 17, 2014 - Mar 23, 2014
 - Mar 24, 2014 - Mar 30, 2014
 - Mar 31, 2014 - Apr 6, 2014
- * Grazing Period: 11/01/13 through 5/01/2014
 No Grazing: Nov 1 - Dec 29 & (April 7 - May 1)

Legend

- ◆ Cattle Guard
- ◇ Corral
- Guzler
- Reservoir
- Spring
- Tank
- Trough
- Well
- SMVA Ground Photography
- Monitoring Locations
- Grazing Allotment Boundary
- Secondary Route
- Corral
- Fence
- Pipeline
- Range Line Grazing Division

WILSON CREEK - DRY LAKE VALLEY GRAZING ALLOTMENT WITH PHOTO MONITORING SITES AND WINTER 2014 SHEEP TELEMETRY

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4 205 000 4 210 000 4 215 000 4 220 000



Exhibit Five

