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**Nevada  
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**LAND USE AND WITHDRAWAL ACTIONS  
NECESSARY FOR AND IN SUPPORT  
OF THE NNWSI PROJECT**

**JUNE 1984**

**UNITED STATES DEPARTMENT OF ENERGY  
NEVADA OPERATIONS OFFICE  
LAS VEGAS, NEVADA**

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**LAND USE AND WITHDRAWAL ACTIONS NECESSARY FOR  
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**R. H. Richards  
D. L. Vieth**

**June 1984**

## LAND USE AND WITHDRAWALS FOR NNWSI

### INTRODUCTION

This paper discusses the history, status, and plans for land use and withdrawals of Yucca Mountain for the purpose of site characterization, the construction of the Exploratory Shaft (ES), and a high-level nuclear waste repository should the NNWSI Project be selected for one or both projects. Actions for protecting and acquiring land have been formulated to meet the requirements of 10 CFR 60.121, which states that "The geologic repository operations area shall be located in or on lands that are either acquired lands under the jurisdiction and control of DOE or lands permanently withdrawn and reserved for its use." In 1981, when it was perceived that the first repository site would be selected in 1985, the initial plan for acquisition was developed. Because of the schedule slippage that has occurred since the passage of the Nuclear Waste Policy Act (NWPA), that plan is being restructured but an alternative plan has not been established.

### HISTORY

The Nevada Test Site (NTS) contains unsurveyed land (792,651 to 814,528 acres) that has been withdrawn from the public domain by the DOE for the conduct of nuclear tests and other related research. There was a series of withdrawals from the Bureau of Land Management (BLM) between February 1952 and August 1965 (see Figure 1). This was done with the cooperation of the Air Force, since part of the NTS was at one time part of the Nellis Range. No time limit was specified in the original withdrawals. The Federal Land Policy and Management Act of 1976 (FLPMA) limits all withdrawals after passage of the act to 20 years, and requires that all existing renewals be reviewed. Renewal of those withdrawals made before the passage of FLPMA may be made for periods not exceeding the original period. As required by FLPMA, the BLM is currently reviewing the land withdrawal for NTS. The DOE has requested a continuation of the permanent withdrawal of the NTS, but with a 100-year review cycle.

In 1979, the NNWSI Project focused its attention on Yucca Mountain as a potential repository site. Since the area of interest straddled both DOE and Air Force land, drilling of boreholes on Air Force land required their approval. While the initial site characterization boreholes were being drilled on NTS, a formal request for a permit to drill on Air Force land was sent to them on August 22, 1979.

In February 1980, the U.S. Army Corps of Engineers, which has the responsibility for the land management for the USAF, granted a three-year use permit (expiring February 1983) for exploration of the 9,900 acres in Township 12 South, Range 49 East, Mount Diablo Meridian, which is shown on Figure 2. The granting of this permit enabled exploration of the Air Force land and the first hole on this parcel, USW G-1, was started in March 1980. As the extent of the potential repository site was further defined by exploration, it was decided that the permitted area should be expanded to encompass a larger exclusionary area, and

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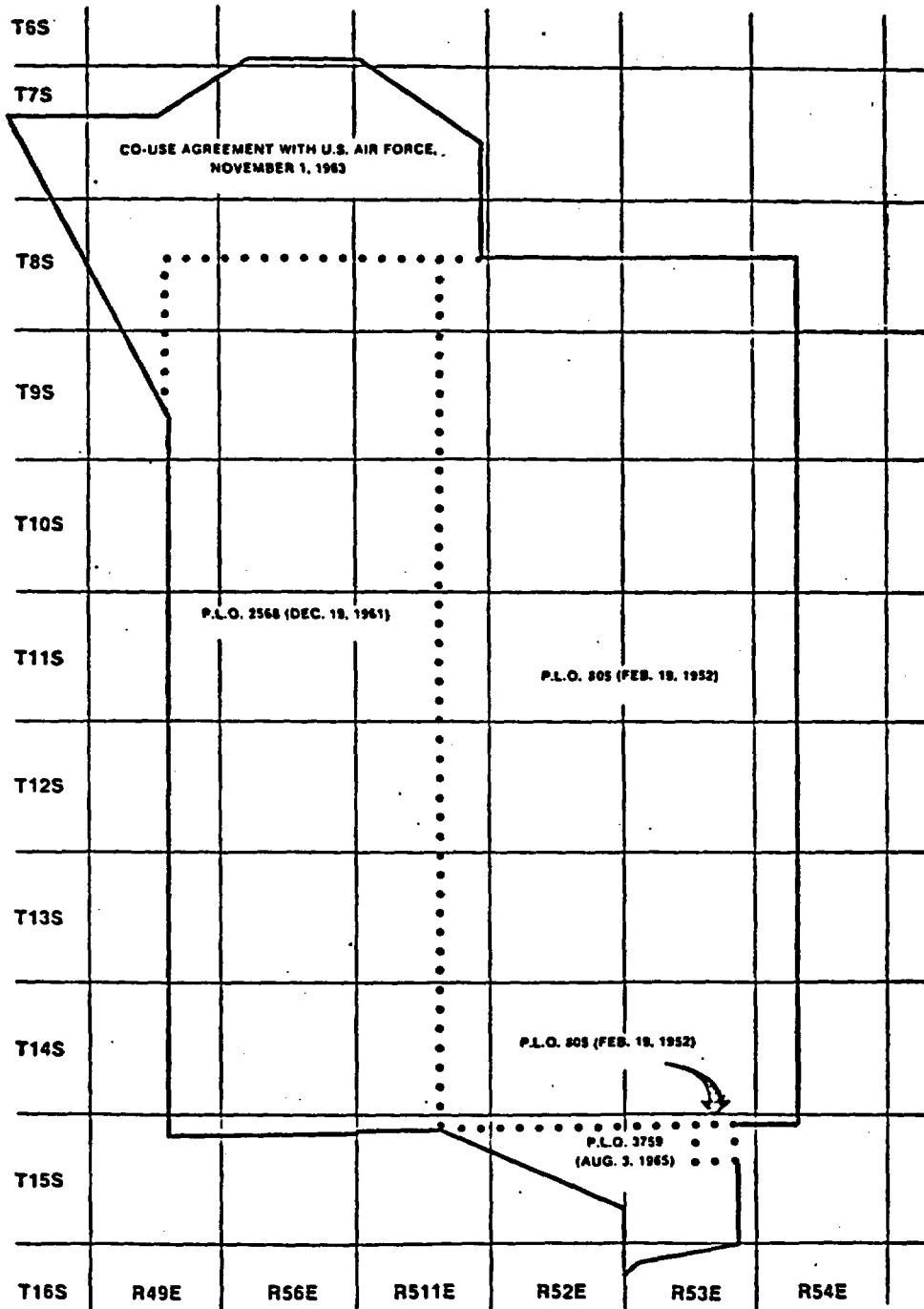


Figure 1



Figure 2

a revised permit renewal with a larger area was being discussed with the Air Force.

The land use and withdrawal issues between the Air Force and the DOE have become somewhat complex. A fact that currently complicates negotiations for access to the Nellis Range is the expiration of their land withdrawal that occurred in 1975. This fact was known to DOE/NV, but the full impact upon the waste program was not fully recognized and understood until early 1983. The legislative renewal of this withdrawal is currently underway. Until such time that it passes Congress, BLM is the official and temporary protector of the land and all negotiations for access to the Nellis Range must include both BLM and the Air Force. The proposed legislation to withdraw the Nellis Range was forwarded to Congress from OMB as of August 5, 1983. The earlier permit for use of the Air Force land, scheduled to expire in February 1983, was immediately renewed for an additional year. Recently, a request was forwarded to the U.S. Army Corps of Engineers for an additional two-year renewal expiring on February 13, 1986. We are retaining our permits with the Air Force to assure continuity of access once they regain full control of the land with the passage of their land withdrawal legislation. The request for an enlarged area is being held in abeyance until the Congress acts on the Air Force withdrawal legislation. During the interim period, this land is not available to mining or other commercial exploration. The site for the ES is on land used by the Air Force, but is subject to a BLM agreement because of the expiration of the Air Force withdrawal. A brief history of the BLM Cooperative Agreement follows, including the agreement for the ES.

In November 1980, the DOE entered into a Cooperative Agreement with the BLM for two townships in Crater Flat, an area immediately to the west of the Yucca Mountain site. The property is described as Townships 13 and 14 South, Range 48 East (see Figure 3). The purpose of the Agreement was to permit the drilling of two holes to obtain data on volcanism and hydrology and to trench across several faults to determine the age of their last movement. It also provides road access into the area immediately west of Yucca Mountain for other drilling and trenching on Air Force permitted land. The Environmental Assessment (EA) covering these activities was prepared and a FONSI was issued. In September 1981, another Cooperative Agreement was negotiated with the BLM for 4,902 acres immediately south of the Nellis Range. This acreage is described as Township 13 South, Range 49 East, Sections 7-10 and 15-22.

As exploration proceeded, there was need to expand the BLM agreement area and the BLM preferred to consolidate the agreements to cover all exploration rather than have a piecemeal arrangement. For BLM convenience, the two earlier agreements were incorporated, in September 1982, into a new, single agreement with additional exploration area permitted. This new agreement expires October 15, 1985. With the advent of the need for an additional hydrology hole further to the south, the agreement has been amended to add Sections 29, 30, 31, 32, and 33 of Township 13 South, Range 49 East. To date, we have a Cooperative Agreement for approximately 50,000 acres south and west of the center of the Yucca Mountain site.

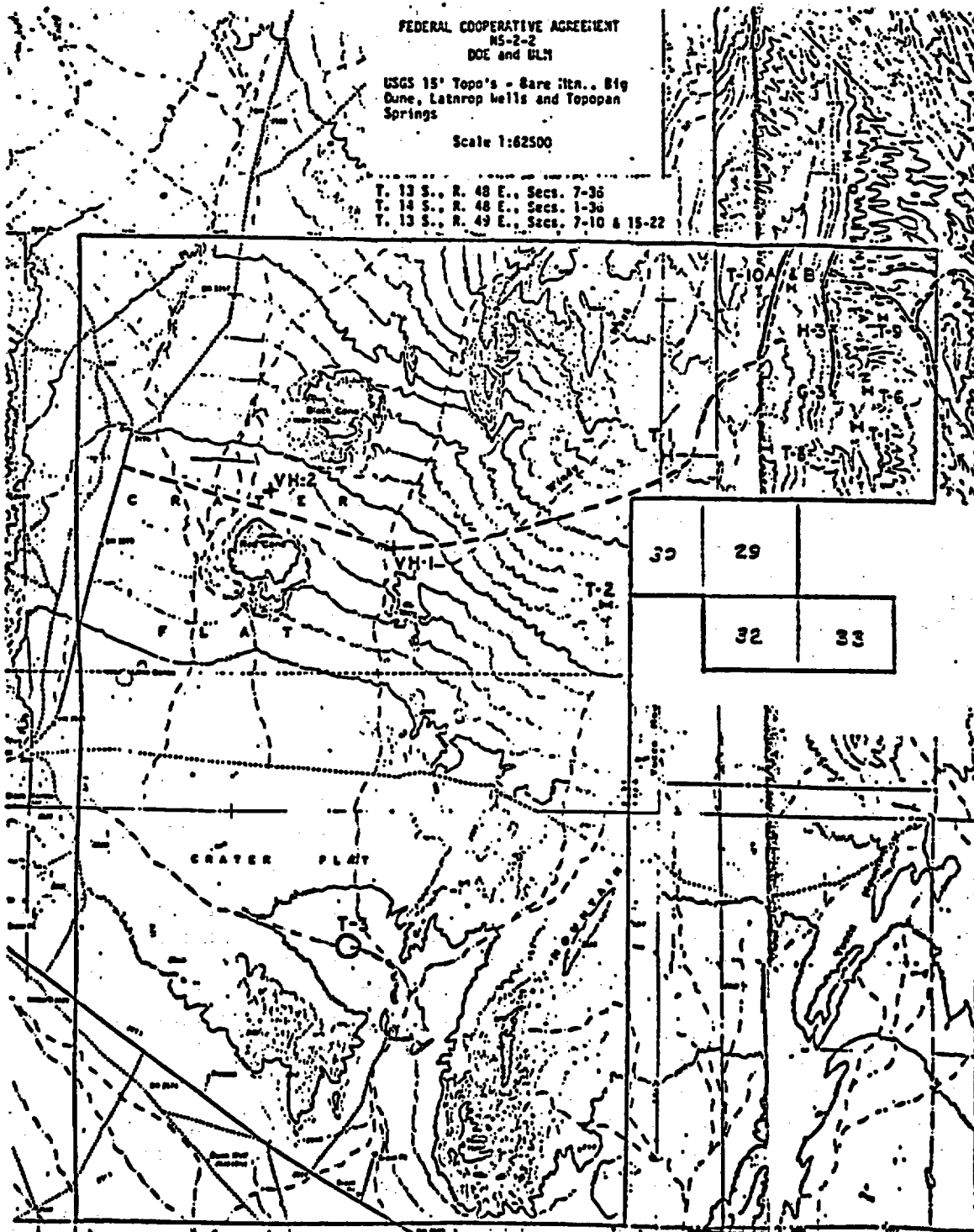


Figure 3



Under the concept of multiple use of lands in the public domain, the current agreement with the BLM does not exclude members of the public from filing mining claims and otherwise exploring the area. Should Yucca Mountain become a permanent repository site, a majority of the 4,900 acres in Township 13 South, Range 49 East will have to be permanently withdrawn by congressional action. To preserve its integrity and to protect the DOE from having to clear mining claims (although no minerals are known to exist on this land), the DOE is in the process of preparing the necessary paper work for a FLPMA withdrawal. The simple act of filing for a land withdrawal will immediately stop all future filing claims for a period of two years.

As was earlier stated, the planned site for the ES was on the Nellis Range. In consultation with the Air Force and BLM, it is agreed that the Air Force withdrawal status did not permit the AF-to-DOE agreement to allow preparation for and construction of the ES. Therefore, the proper course of action was considered to be the execution of a Cooperative Agreement with the BLM (that would be the absolute minimum perturbation to the Air Force withdrawal action) to allow the construction of the ES. In June 1983, an agreement acceptable to all parties was concluded with the BLM for Section 36, Township 12 South, Range 49 East (as shown in Figure 2); this agreement expires May 31, 1993. A National Environmental Protection Act (NEPA) EA, covering site preparation only, accompanied this agreement and the BLM issued a FONSI. As of this writing, site preparation has not been initiated. In accordance with the Nuclear Waste Policy Act of 1982, a separate EA will be prepared for Site Characterization and will cover the impact of shaft construction. This approach was approved by DOE and the Council on Environmental Quality. Once the Air Force withdraws the Nellis Range by congressional action, the DOE will continue to operate under the Air Force Land Use Permit.

#### STATUS

The relationship among the DOE, Air Force, and the BLM is one of cooperation and support. The DOE and its predecessors have many years of experience in working together on land use. The formality of obtaining approved access to land is understood and followed.

With regard to Yucca Mountain, the Air Force conducts no tactical operations in this portion of their range, but does use this as one corridor for over-flights into the range. They have been assured by DOE even if the site is selected for a repository, that there is no technical reason to restrict over-flights. Existing flight regulations restrict the minimum altitude for planes not under strict range control to 14,000 feet. Planes under strict control are permitted to fly as low as 1,500 feet above the terrain, but this does not occur in the Yucca Mountain area. Planes flying into the range along this corridor do carry ordnance; if a repository is located at Yucca Mountain, surface facilities vulnerable to stray ordnance will not be located in this corridor.

For exploration purposes, the DOE has obtained access to approximately 9,900 acres under a use permit from the Air Force. Since land withdrawal expired in 1975, the status of the permit is uncertain. However, BLM has indicated no

objection to this arrangement. On August 5, the legislation for permanent withdrawal was submitted to Congress by the Office of Management and Budget. When the legislation is approved, the Air Force will have full authority over the land and the process and authority for access to the Air Force land will again be clear and uncomplicated. During this interim period, DOE is not taking any action on site exploration on Air Force land that might be considered inappropriate because of a lack of clear authority.

The site for the ES is on this Air Force land and a separate access agreement was concluded with the BLM on June 6, 1983, for part of Section 36, Township 12 South, Range 49 East. This parcel comprises about 540 acres. Clear authority for this work has been established.

#### PLAN

The plan to withdraw Federal land for a repository will be implemented if, and only if, the Yucca Mountain site is recommended to the Congress by the President for a repository and the recommendation is supported by the Congress. It is expected that the initial FLPMA land withdrawal request (with its 20-year limit) will be forwarded to BLM at the same time as the license application is sent to NRC. It is anticipated that permanent withdrawal via special legislation will not be requested until NRC approves the decommissioning and sealing of the repository. Until the requirement for retrievability of waste from the repository is no longer necessary, there is no reason (based on NRC regulations) to request Congress to effect a permanent withdrawal.

Formal request for land withdrawal during the site characterization phase of the Project has been resisted, since this action could be improperly interpreted by the public as a precursor of a decision about the site. Access to the Air Force and BLM land for purposes of site characterization can be maintained by agreements and permits. The Air Force land of interest is protected from outside activity through the FLPMA controls. The BLM land of interest is vulnerable to outside mineral exploration and mining claims. The site characterization work to date has shown that there are no minerals of value in the vicinity and no valid basis for a mining claim. In the interim, NV has prepared a land withdrawal package that is ready for implementation covering the 4,902 acres shown in Figures 2 and 4. The package has been reviewed by DOE/HQ Property Management Office and approved. The process of withdrawal will be initiated if it is clear that there is a threat to the land. In the interim, no action will be taken because of a potential for misunderstanding of the action with the concomitant public outcry and precipitous accusations about the siting process.

The amount of land required to be withdrawn will be defined by the size of the "repository block." Figure 4 shows the estimated size and configuration of the block. Since the block is an irregular shape, a rectangular shape has been proposed for ease of relating the land area to be withdrawn to the rectangular coordinates and Section/Township designations that are used to describe real property. In addition to land for the repository block proper, NRC requires that a buffer zone be established in which subsurface activities are controlled.

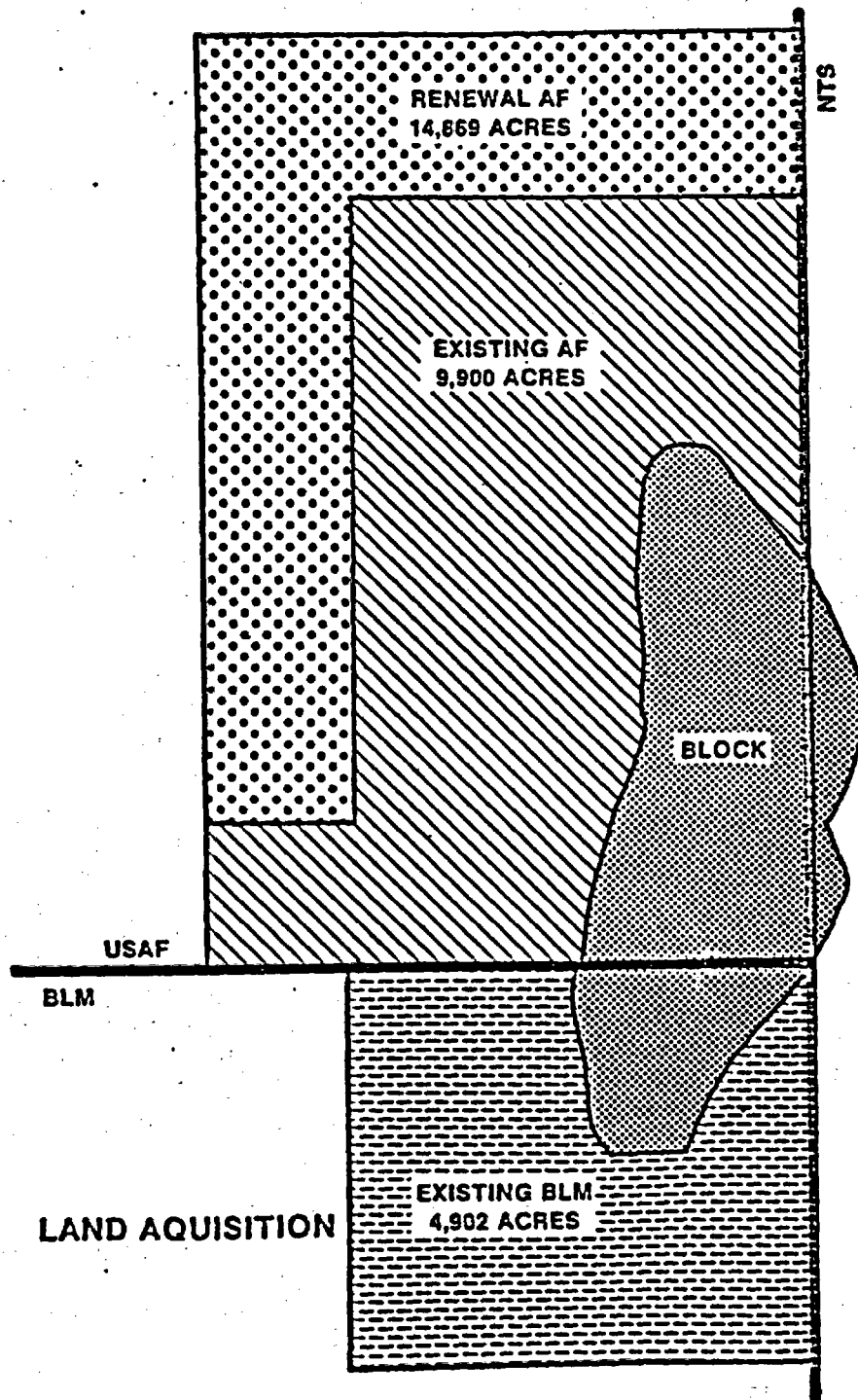


Figure 4

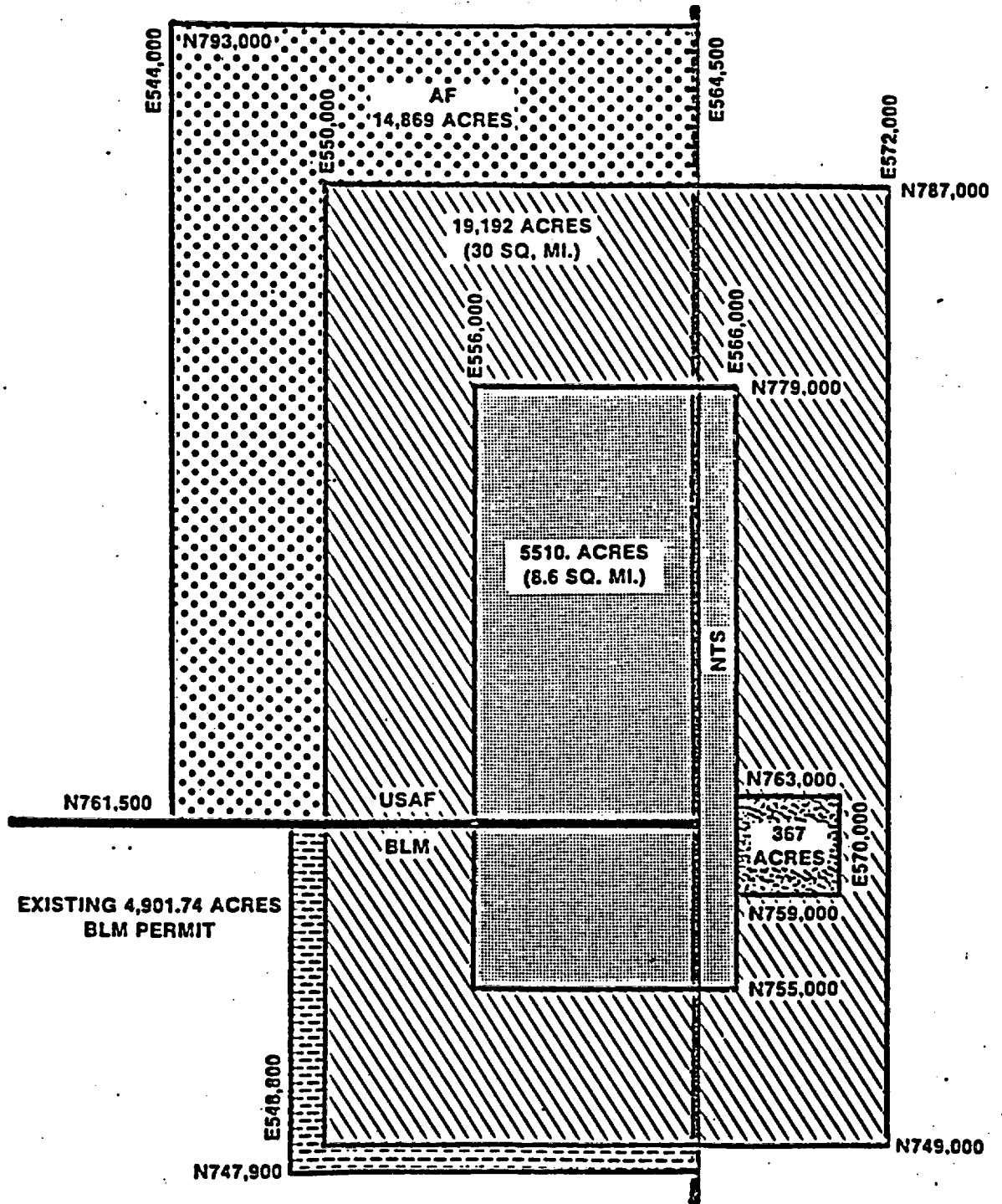


Figure 5

The buffer must be at least a mile in width around the repository block. Figure 5 shows the relation of repository block and buffer zone to the NTS, Air Force land, BLM land, and the areas covered by existing and future agreements. The total land area expected to be withdrawn for a repository at Yucca Mountain would be less than 25,000 acres.

NEVADA NUCLEAR WASTE STORAGE INVESTIGATIONS

DISTRIBUTION LIST

M. J. Lawrence (RW-1)  
Acting Director  
Office of the Director  
U. S. Department of Energy  
Washington, DC 20545

J. W. Bennett (RW-20)  
Acting Associate Director  
Geologic Repository Deployment  
U.S. Department of Energy  
Washington, DC 20545

Ralph Stein (RW-21)  
Acting Deputy Associate Director  
Geologic Repository Deployment  
U. S. Department of Energy  
Washington, DC 20545

J. J. Fiore, (RW-22)  
Acting Director  
Program Management Division  
Geologic Repository Deployment  
U. S. Department of Energy  
Washington, DC 20545

M. W. Frei (RW-23)  
Acting Director  
Engineering & Licensing Division  
Geologic Repository Deployment  
U. S. Department of Energy  
Washington, DC 20545

E. S. Burton (RW-25)  
Acting Director  
Siting Division  
Geologic Repository Deployment  
U.S. Department of Energy  
Forrestal Building  
Washington, DC 20585

C. R. Cooley (RW-24)  
Acting Director  
Geosciences & Technology Division  
Geologic Repository Deployment  
U. S. Department of Energy  
Washington, DC 20545

D. C. Newton (RW-23)  
Engineering & Licensing Division  
Geologic Repository Deployment  
U. S. Department of Energy  
Washington, DC 20545

T. P. Longo (RW-22)  
Program Management Division  
Geologic Repository Deployment  
U.S. Department of Energy  
Washington, DC 20545

Cy Klingsberg (RW-24)  
Geosciences & Technology Division  
Geologic Repository Deployment  
U. S. Department of Energy  
Washington, DC 20545

Barry Gale (RW-25)  
Siting Division  
Geologic Repository Deployment  
U.S. Department of Energy  
Forrestal Building  
Washington, DC 20585

R. J. Blaney (RW-22)  
Program Management Division  
Geologic Repository Deployment  
U.S. Department of Energy  
Washington, DC 20545

J. E. Shaheen (RW-3)  
Institutional Relations Staff  
Geologic Repository Deployment  
U. S. Department of Energy  
Forrestal Building  
Washington, DC 20585

J. O. Neff, Manager  
Salt Repository Project Office  
U. S. Department of Energy  
505 King Avenue  
Columbus, OH 43201

S. A. Mann, Manager  
Crystalline Rock Project Office  
U. S. Department of Energy  
9800 South Cass Avenue  
Argonne, IL 60439

O. L. Olson, Project Manager  
Basalt Waste Isolation Project Office  
U. S. Department of Energy  
Richland Operations Office  
Post Office Box 550  
Richland, WA 99352

D. L. Vieth, Director (6)  
Waste Management Project Office  
U. S. Department of Energy  
Post Office Box 14100  
Las Vegas, NV 89114

D. F. Miller, Director  
Office of Public Affairs  
U. S. Department of Energy  
Post Office Box 14100  
Las Vegas, NV 89114

D. A. Nowak (14)  
Office of Public Affairs  
U. S. Department of Energy  
Post Office Box 14100  
Las Vegas, NV 89114

B. W. Church, Director  
Health Physics Division  
U. S. Department of Energy  
Post Office Box 14100  
Las Vegas, NV 89114

Chief, High-Level Waste Technical  
Development Branch  
Division of Waste Management  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

NTS Project Manager  
High-Level Waste Technical  
Development Branch  
Division of Waste Management  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Document Control Center  
Division of Waste Management  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

P. T. Prestholt  
NRC Site Representative  
1050 East Flamingo Road  
Suite 319  
Las Vegas, NV 89109

K. Street, Jr.  
Lawrence Livermore National  
Laboratory  
Post Office Box 808  
Mail Stop L-209  
Livermore, CA 94550

L. D. Ramspott (3)  
Technical Project Officer for NNWSI  
Lawrence Livermore National Laboratory  
Post Office Box 808  
Mail Stop L-204  
Livermore, CA 94550

D. C. Hoffman  
Los Alamos National Laboratory  
Post Office Box 1663  
Mail Stop E-515  
Los Alamos, NM 87545

D. T. Oakley (3)  
Technical Project Officer for NNWSI  
Los Alamos National Laboratory  
Post Office Box 1663  
Mail Stop F-671  
Los Alamos, NM 87545

R. W. Lynch  
Sandia National Laboratories  
Post Office Box 5800  
Organization 6300  
Albuquerque, NM 87185

T. O. Hunter (4)  
Technical Project Officer for NNWSI  
Sandia National Laboratories  
Post Office Box 5800  
Organization 6310  
Albuquerque, NM 87185

W. W. Dudley, Jr. (3)  
Technical Project Officer for NNWSI  
U. S. Geological Survey  
Post Office Box 25046  
418 Federal Center  
Denver, CO 80225

A. R. Hakl  
Technical Project Officer for NNWSI  
Westinghouse Electric Corporation  
Waste Technology Services Division  
Nevada Operations  
Post Office Box 708  
Mail Stop 703  
Mercury, NV 89023

M. E. Spaeth (2)  
Technical Project Officer for NNWSI  
Science Applications, Inc.  
2769 South Highland Drive  
Las Vegas, NV 89109

SAI-T&MSS Library (2)  
Science Applications, Inc.  
2950 South Highland Drive  
Las Vegas, NV 89109

W. S. Twenhofel  
820 Estes Street  
Lakewood, CO 80215

H. D. Cunningham  
General Manager  
Reynolds Electrical &  
Engineering Co., Inc.  
Post Office Box 14400  
Mail Stop 555  
Las Vegas, NV 89114

A. E. Gurrola  
General Manager  
Energy Support Division  
Holmes & Narver, Inc.  
Post Office Box 14340  
Las Vegas, NV 89114

J. A. Cross, Manager  
Las Vegas Branch  
Fenix & Scisson, Inc.  
Post Office Box 15408  
Las Vegas, NV 89114

N. E. Carter  
Battelle Columbus Laboratory  
Office of Nuclear Waste Isolation  
505 King Avenue  
Columbus, OH 43201

ONWI Library (5)  
Battelle Columbus Laboratory  
Office of Nuclear Waste Isolation  
505 King Avenue  
Columbus, OH 43201

A. A. Metry, Program Manager  
Roy F. Weston, Inc.  
2301 Research Blvd., 3rd Floor  
Rockville, MD 20850

T. Hay, Executive Assistant  
Office of the Governor  
State of Nevada  
Capitol Complex  
Carson City, NV 89710

R. R. Loux, Jr., Manager  
Nuclear Waste Project Office  
State of Nevada  
Capitol Complex  
Carson City, NV 89710

C. H. Johnson  
Nuclear Waste Project Office  
State of Nevada  
Capitol Complex  
Carson City, NV 89710

Abby Johnson  
414 West Ninth Street  
Carson City, NV 89701

John Fordham  
Desert Research Institute  
Water Resources Center  
P. O. Box 60220  
Reno, NV 89506

Dr. Martin Mifflin  
Desert Research Institute  
Water Resources Center  
Suite 201  
1500 East Tropicana Avenue  
Las Vegas, NV 89109



E. B. Ash  
Rockwell International Atomics  
Rockwell Hanford Operations  
Richland, WA 99352