



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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CM/ACM	_____
Finance	_____
DA	_____
Risk Mgt.	_____
HR	<u>N/A</u>
Comptroller	_____

STAFF REPORT

BOARD MEETING DATE: October 13, 2015

DATE: October 6, 2015

TO: Board of County Commissioners

FROM: Kevin Schiller, Assistant County Manager, kschiller@washoecounty.us
775-328-2008

THROUGH: John Slaughter, County Manager

SUBJECT: Presentation and possible action to support recent lawsuit filed to challenge land use restrictions in Nevada imposed by the Nevada portions of the BLM and USFS September 2015 Land Management Decisions Regarding Greater Sage Grouse Conservation, including authorizing Declaration of county official Identifying Specific Mischaracterization of Lands in Washoe County and Resulting Harm. (Requested by Commissioner Herman)

SUMMARY

Presentation and possible action to support recent lawsuit filed to challenge land use restrictions in Nevada imposed by the Nevada portions of the BLM and USFS September 2015 Land Management Decisions Regarding Greater Sage Grouse Conservation, including authorizing Declaration of county official Identifying Specific Mischaracterization of Lands in Washoe County and Resulting Harm.

Washoe County Strategic Objective supported by this item: Regional and Community Leadership.

PREVIOUS ACTION

No previous action.

BACKGROUND

Washoe County staff actively worked with input on the Sage Grouse Draft Environmental Impact Statement dating back to the 1990's. The recently approved Bureau of Land Management (BLM) Approved Resource Management Plan ("ARMP") currently conflicts with the Conservation Element of the Washoe County Master Plan and will interfere with Washoe County's planning efforts to include the ability to develop schools, cemeteries, and to manage other habitat and economic development issues.

The Washoe County Master Plan's goal is to prevent further damage to species and their habitats, so that their presence in Washoe County can be maintained in a practical, comprehensive way. The generalities in the ARMP maps and the BLM's inability to

consider site specific data and information to ground-truth in their maps is resulting in arbitrary exclusion of Lands from use even when those lands might not be actual habitat. Prior to the ARMP, Washoe County worked with the Carson City BLM District to identify lands the County would like to acquire during preparation of the Resource Management plan (RMP) for the district. The County requested lands were shown on the RMP maps as suitable for disposal until the ARMP eliminated some of the areas previously classified as suitable for disposal due to the alleged presence of sage grouse habitat based on the general ARMP habitat maps. The “general” habitat in the ARMP maps comes close to the urban, suburban areas of the Truckee Meadows and has affected local entities from their ability to acquire BLM land for civic uses.

In addition the focus on landscape level maps and refusal to consider site specific data means the County may be missing important habitat that is in need of protection or identification for conservation.

Currently, several Counties are additionally concerned with the current ARMP plan approved through the BLM with a recent filing of a lawsuit through the Nevada Association of Counties (NACO). NACO will provide a summary in more detail in the corresponding presentation.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

It is recommended that the Board of County Commissioners acknowledge the presentation and take action to support recent lawsuit filed to challenge land use restrictions in Nevada imposed by the Nevada portions of the BLM and USFS September 2015 Land Management Decisions Regarding Greater Sage Grouse Conservation, including authorizing Declaration of county official Identifying Specific Mischaracterization of Lands in Washoe County and Resulting Harm.

POSSIBLE MOTION

Should the Board agree with staff’s recommendation, a possible motion would be “Move to acknowledge the presentation and possible action to support recent lawsuit filed to challenge land use restrictions in Nevada imposed by the Nevada portions of the BLM and USFS September 2015 Land Management Decisions Regarding Greater Sage Grouse Conservation, including authorizing Declaration of county official Identifying Specific Mischaracterization of Lands in Washoe County and Resulting Harm.”

The attached document was submitted to the
Washoe County Board of Commissioners during
the meeting held on October 13, 2015.
by Manager's Office
for Agenda Item No. 8
and included here pursuant to NRS 241.020(7) as
amended by AB65 of the 2013 Legislative Session.

GREATER SAGE GROUSE: LAND MANAGEMENT PLAN LAWSUIT

WASHOE COUNTY
OCTOBER 13, 2015

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- The U.S. Fish and Wildlife Service's recent announcement that the Greater Sage-grouse does not need to be listed as a threatened and endangered species is good news – but it is only half of the story.

Overview

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to Consider

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- BCC 10-13-15
#8 MANAGER'S OFFICE

- The Nevada Land Management Plan (NVLMP) imposes widespread and onerous land use prohibitions and restrictions
 - Applies to over 22 million acres in northern Nevada
 - Uses maps that do not reflect Greater Sage Grouse Habitat
 - Removes previously designated disposal areas
 - Limits access and transportation
-

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- Western Exploration LLC, Elko County, Eureka County, and Quantum Minerals LLC filed a lawsuit on September 23rd in U.S. District Court for the District of Nevada
 - Lawsuit challenges the legality of the land use prohibitions and restrictions in BLM's and USFS' NVLMP for Greater Sage Grouse
-

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LEGAL ISSUES

- THE HABITAT MAPS ARE WRONG
- REMOVAL OF LAND FOR DISPOSAL
- SWEEPING TRAVEL RESTRICTIONS
- VIOLATES LAND POLICE POWERS OVER LAND USE PLANNING
- NO INCORPORATION OF LOCAL OR STATE PLANS
- UNCLEAR DEFINITION FOR "VALID, EXISTING USE"
- INADEQUATE MEASURES TO ADDRESS WILDFIRES AND NON-NATIVE GRASSES
- DRAFT EIS MUCH DIFFERENT THAN FINAL EIS AND FINAL NVLMP WITH SFAS
- VIOLATES MULTIPLE USE REQUIREMENTS
- FAILS TO PRESERVE RIGHTS OF CLAIM LOCATORS
- BLM DELEGATED ITS AUTHORITY TO THE FWS

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- On September 28th, Plaintiffs filed a Motion for Preliminary Injunction (MPI) to ask the Court to enjoin three of the most onerous elements in the NVLMP:
 - 2.8 million acre withdrawal
 - travel restrictions that affect 16 million acres
 - grazing restrictions which will increase rangeland fuel loads and lead to habitat destruction due to wildfires (the "Nevada Challenged Restrictions")

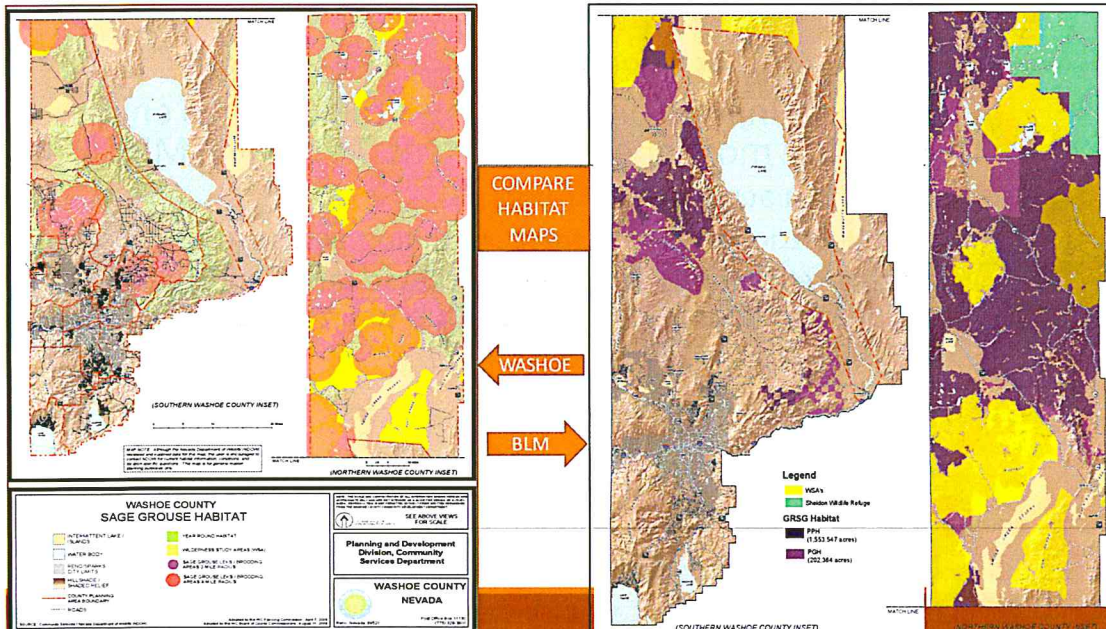
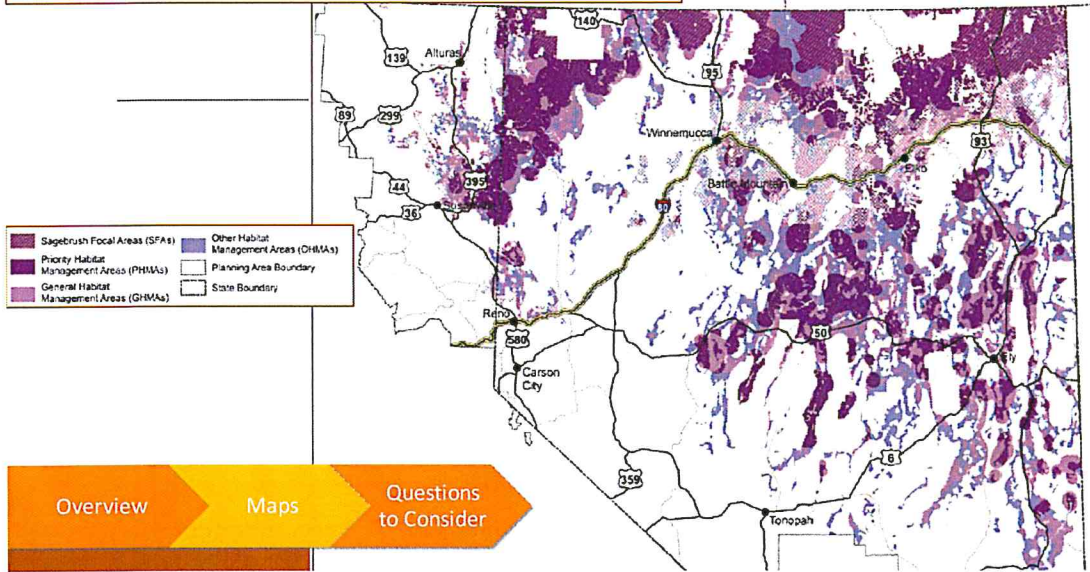
Overview

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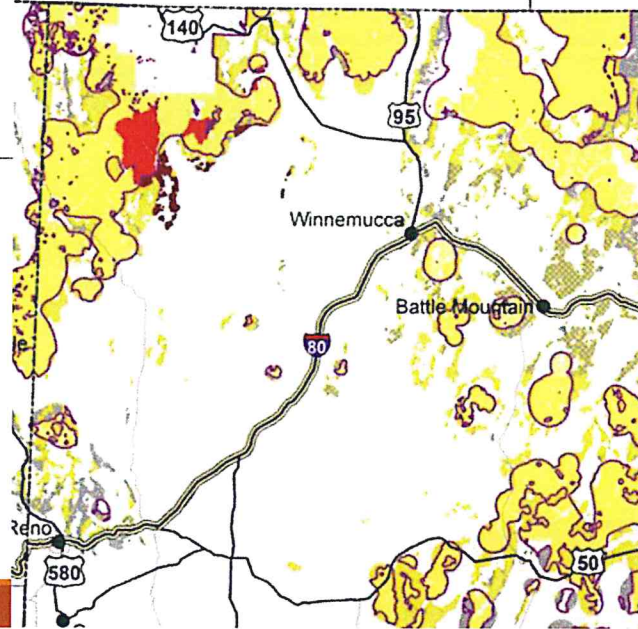
NEVADA AND NORTHEASTERN CALIFORNIA HABITAT MANAGEMENT AREAS



TRAVEL AND TRANSPORTATION
LIMITED AREAS IN YELLOW

Question: Are there any
Rights of Ways that
Washoe County does not
have on file with the BLM?

Concern: The NVLMP maps
show as limited or closed
any areas in yellow.



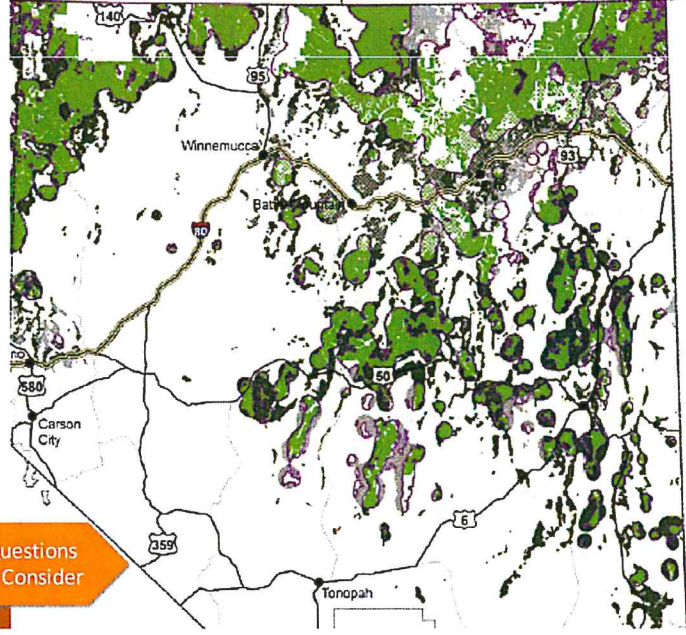
9

BLM Right-of-Way Grants to Washoe County

Customer	Serial Number	County Road/Area	Field Office	Case Disp
WASHOE CNTY	NVN 019936	Ravazza Ranch Subdivision	Carson City	AUTHORIZED
WASHOE CNTY	NVN 043643	Toll Rd	Carson City	AUTHORIZED
WASHOE CNTY	NVN 046468	Red Rock Rd	Carson City	AUTHORIZED
WASHOE CNTY	NVN 048623	Red Rock Rd	Carson City	AUTHORIZED
WASHOE CNTY	NVN 048654	Winnemucca Ranch Rd	Carson City	AUTHORIZED
WASHOE CNTY	NVN 050600	Cold Springs Valley	Carson City	AUTHORIZED
WASHOE CNTY	NVN 051086	Olinghouse Rd	Carson City	AUTHORIZED
WASHOE CNTY	NVN 053782	Sun Valley School	Carson City	AUTHORIZED
WASHOE CNTY	NVN 058359	W Winnemucca Ranch Rd	Carson City	AUTHORIZED
WASHOE CNTY	NVN 059734	Mullen Pass	Carson City	AUTHORIZED
WASHOE CNTY	NVN 060200	Sun Valley/Pyramid Hwy	Carson City	AUTHORIZED
WASHOE CNTY ROAD DEPT	NVN 060618	Pyramid Reservation	Carson City	AUTHORIZED
WASHOE CNTY	NVN 078965	Broken Hills	Carson City	AUTHORIZED
WASHOE CNTY	NVN 080650	Broken Hills	Carson City	AUTHORIZED
WASHOE CNTY	NVN 085174	Mustang	Carson City <i>To Hoop Springs</i>	AUTHORIZED
WASHOE CNTY ROAD DEPT	NVCA 046285	CR 34S	Susanville	AUTHORIZED
WASHOE CNTY ROAD DEPT	NVCA 048644	Smoke Creek Rd	Susanville	AUTHORIZED
WASHOE CNTY ROAD DEPT	NVCA 048645	CR 34S	Susanville	AUTHORIZED
WASHOE CNTY	NVCA 055749	Lost Creek Rd	Susanville	PENDING
WASHOE CNTY	NVCA 055750	CR 08A	Susanville	PENDING
WASHOE CNTY ROAD DEPT	NVCA 062762	CR 37	Susanville	AUTHORIZED
WASHOE CNTY ROAD DEPT	NVCA 075878	Old Camp Rd	Susanville	PENDING
WASHOE CNTY	NVN 048648	CR10	Winnemucca	AUTHORIZED
WASHOE CNTY	NVN 056471	Gerlach Batch plnt to DG Pit	Winnemucca	AUTHORIZED
WASHOE CNTY	NVN 058502	Transfer Rd	Winnemucca	AUTHORIZED
WASHOE CNTY	NVN 060993	Rodeo Creek Rd	Winnemucca	AUTHORIZED
WASHOE CNTY	NVN 060994	SR34/CR11	Winnemucca	AUTHORIZED

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LANDS THE BLM WILL RETAIN OR REMOVE FROM DISPOSAL LANDS IN GREEN



Question: Are there BLM lands that Washoe County plans to obtain by disposal?

Concern: The maps show as unavailable any lands in green in Washoe County.



4 MAIN QUESTIONS TO CONSIDER

1. INTERFERENCE WITH WASHOE COUNTY LAND USE PLANS
2. INTERFERENCE WITH WASHOE COUNTY ACCESS
3. DISPOSAL AREAS PLANNED FOR GROWTH
4. ECONOMIC IMPACTS TO WASHOE COUNTY

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EXAMPLES OF HARMS

- Washoe County can no longer build a middle school or cemetery on land that Washoe County does not consider to be habitat
- Travel restrictions throughout Northern Washoe County
- Elko County has already suffered an estimated loss of \$500 million due to the prohibition against wind energy projects in the withdrawal zone.
- Elko County estimates that the livestock restrictions will cost the County \$31 million per year in lost agricultural productivity.
- Eureka County estimates a loss of between \$7 to \$15 million per year.

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The Lawsuit Shows Violations of:

National Environmental Protection Act (NEPA)

- Failure to follow procedures (adding withdrawal land in FEIS, and no mention in DEIS), failure to disclose use of incomplete data, no evidence of inconsistencies with State Plan

Federal Land Policy Management Act (FLPMA)

- Did not consult with Counties or the State for Land Use Management plans or Sage Grouse Plans,

Mining Law of 1872

Administrative Procedures Act

- Must base decisions on substantial evidence in the record
- May not be "arbitrary and capricious"

Small Business Regulatory Enforcement Fairness Act

United States Constitution

- Impermissibly delegated its responsibilities to the FWS

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ACRONYMS

LUPA: Land Use Plan Amendment. Used for comment period.

NVLMP: Nevada Land Management Plan.

DEIS: Draft Environmental Impact Statement. Provided to the public for comment.

FEIS: Final Environmental Impact Statement. After comments have been incorporated.

ROD: Record of Decision. Final agency action. Parties may now sue. Everything is now in the Agency's discretion.

ARMP: Amended Resource Management Plan.

LAWSUIT DETAILS

Complaint:

- The original filing. Defendants have 30-60 days to respond.
- Plaintiffs can be added along with their information.

Motion for Preliminary Injunction

- A motion to stop the BLM from implementing the NVLMP while the court is deciding the matter on the merits.

Overview

Maps

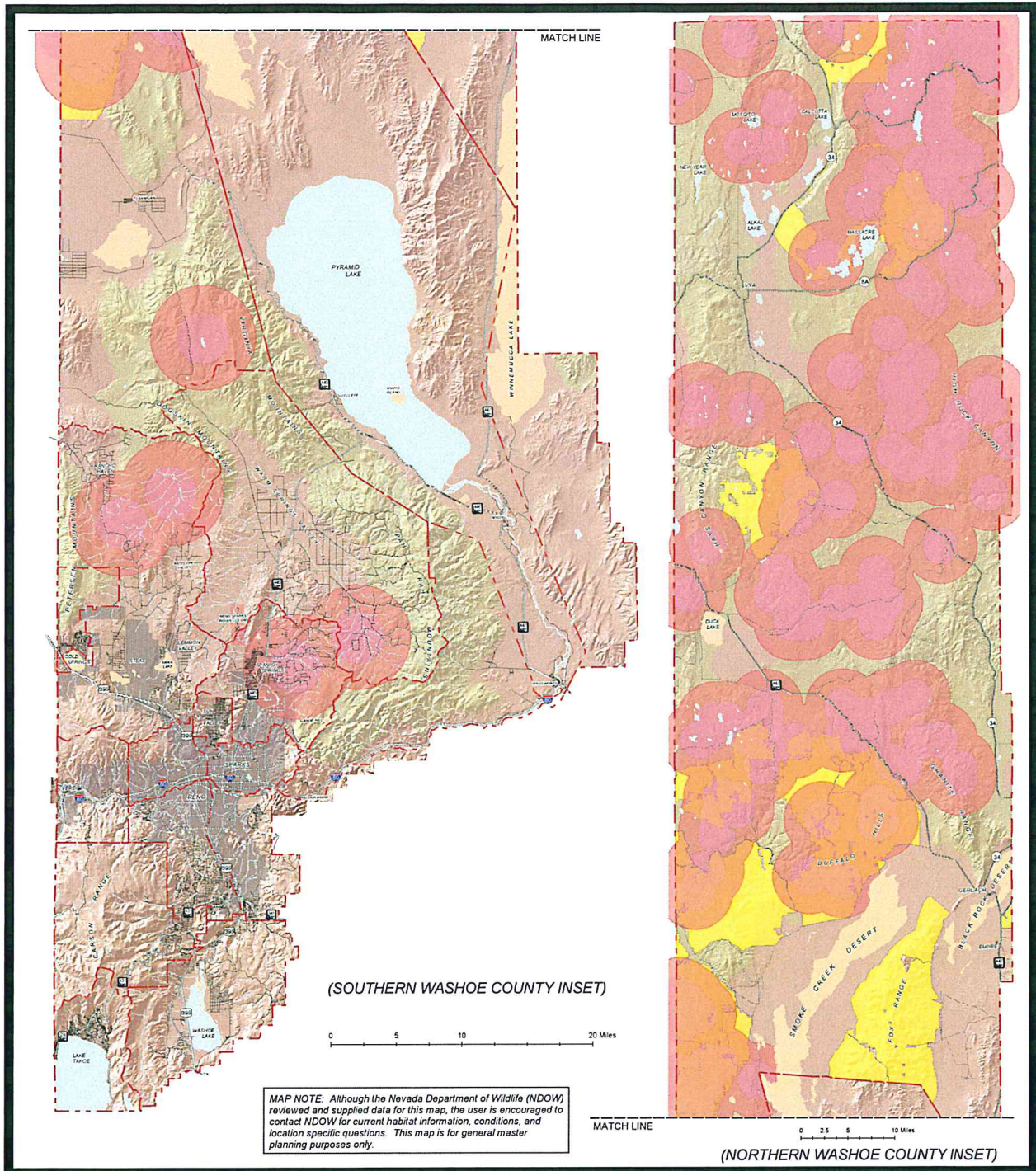
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WASHOE COUNTY SAGE GROUSE HABITAT

- | | |
|-------------------------------|---|
| INTERMITTENT LAKE / ISLANDS | YEAR ROUND HABITAT |
| WATER BODY | WILDERNESS STUDY AREAS (WSA) |
| RENO/SPARKS CITY LIMITS | SAGE GROUSE LEKS / BROODING AREAS 2-MILE RADIUS |
| HILLSHADE / SHADED RELIEF | SAGE GROUSE LEKS / BROODING AREAS 4-MILE RADIUS |
| COUNTY PLANNING AREA BOUNDARY | |
| ROADS | |

SOURCE: Community Services / Nevada Department of Wildlife (NDOW)

Adopted by the WC Planning Commission: April 7, 2009
Adopted by the WC Board of County Commissioners: August 11, 2009

NOTE: THE SCALE AND CONFIGURATION OF ALL INFORMATION SHOWN HEREON ARE APPROXIMATE ONLY AND ARE NOT INTENDED AS A GUIDE FOR DESIGN OR SURVEY WORK. REPRODUCTION IS NOT PERMITTED WITHOUT PRIOR WRITTEN PERMISSION FROM THE WASHOE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT



SEE ABOVE VIEWS
FOR SCALE

**Planning and Development
Division, Community
Services Department**



**WASHOE COUNTY
NEVADA**

Reno, Nevada 89520

Post Office Box 11130
(775) 328-3600

BLM Documents and Files: [https://
eplanning.blm.gov/epl-front-office/eplanning/
planAndProjectSite.do?
methodName=dispatchToPatternPage¤tPa
gId=31103](https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=31103)

This Appendix retrieved from: [https://
eplanning.blm.gov/epl-front-office/projects/
lup/21152/63236/68485/](https://eplanning.blm.gov/epl-front-office/projects/lup/21152/63236/68485/)

Appendix A

Approved RMP Amendment Maps

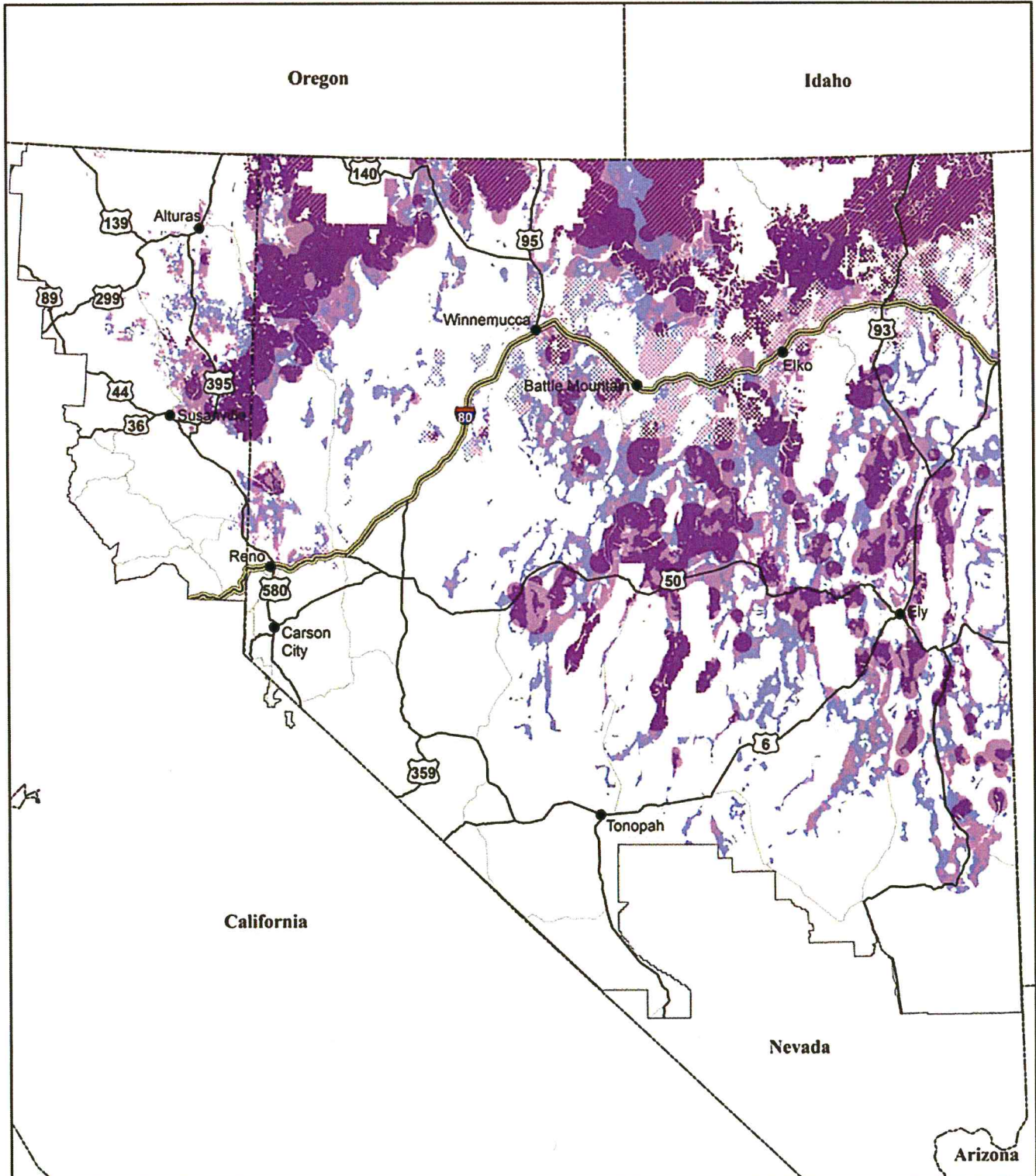










Figure 2-1: Nevada and Northeastern California Habitat Management Areas

-  Sagebrush Focal Areas (SFAs)
-  Priority Habitat Management Areas (PHMAs)
-  General Habitat Management Areas (GHMAs)
-  Other Habitat Management Areas (OHMAs)
-  Planning Area Boundary
-  State Boundary

0 30 60 Miles

September 2015



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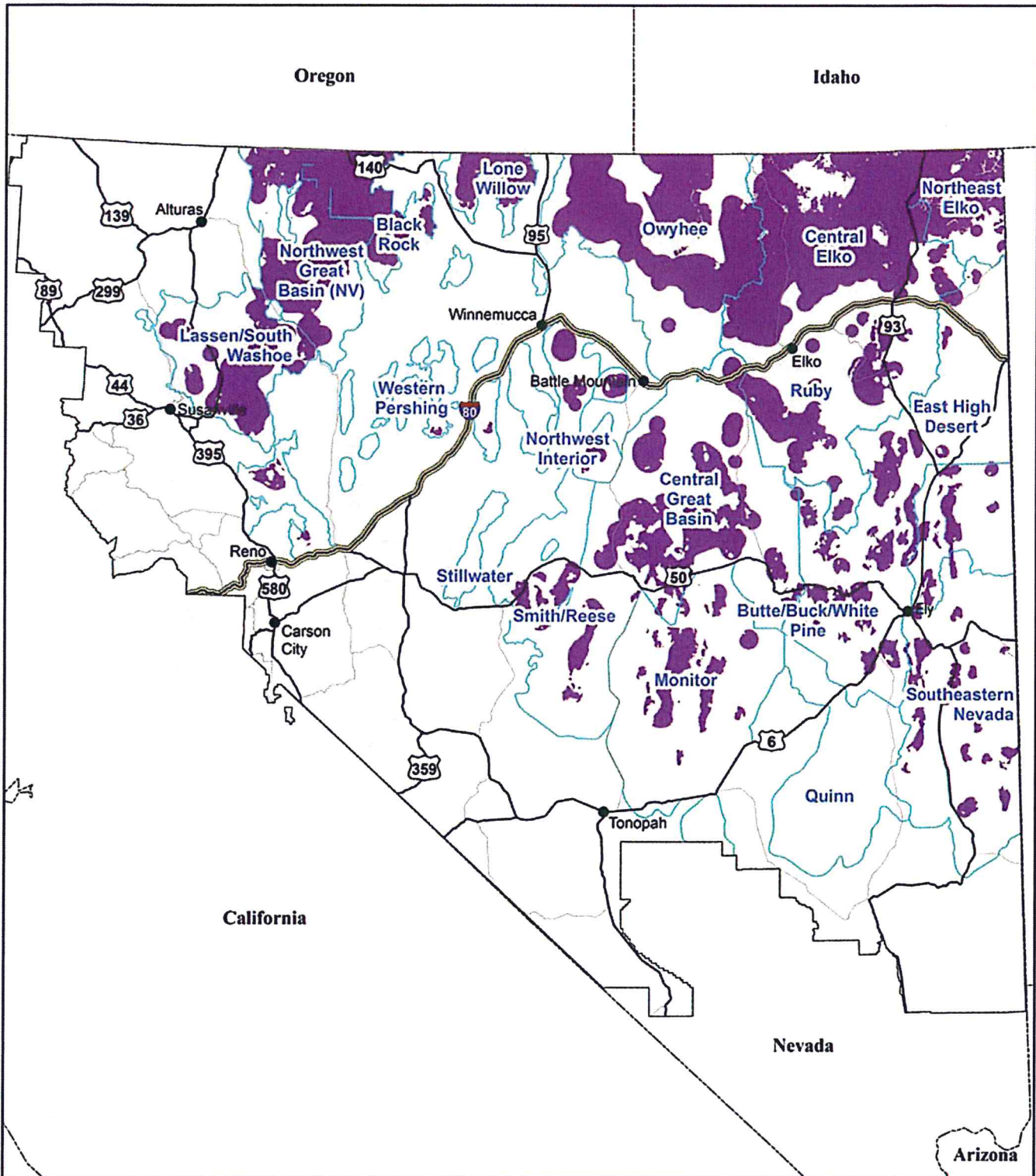


Figure 2-2: Nevada and Northeastern California GRSG Biologically Significant Units and Priority Habitat Management Areas

Legend

- Biologically Significant Units
- Priority Habitat Management Areas (PHMAs)
- Planning Area Boundary
- State Boundary



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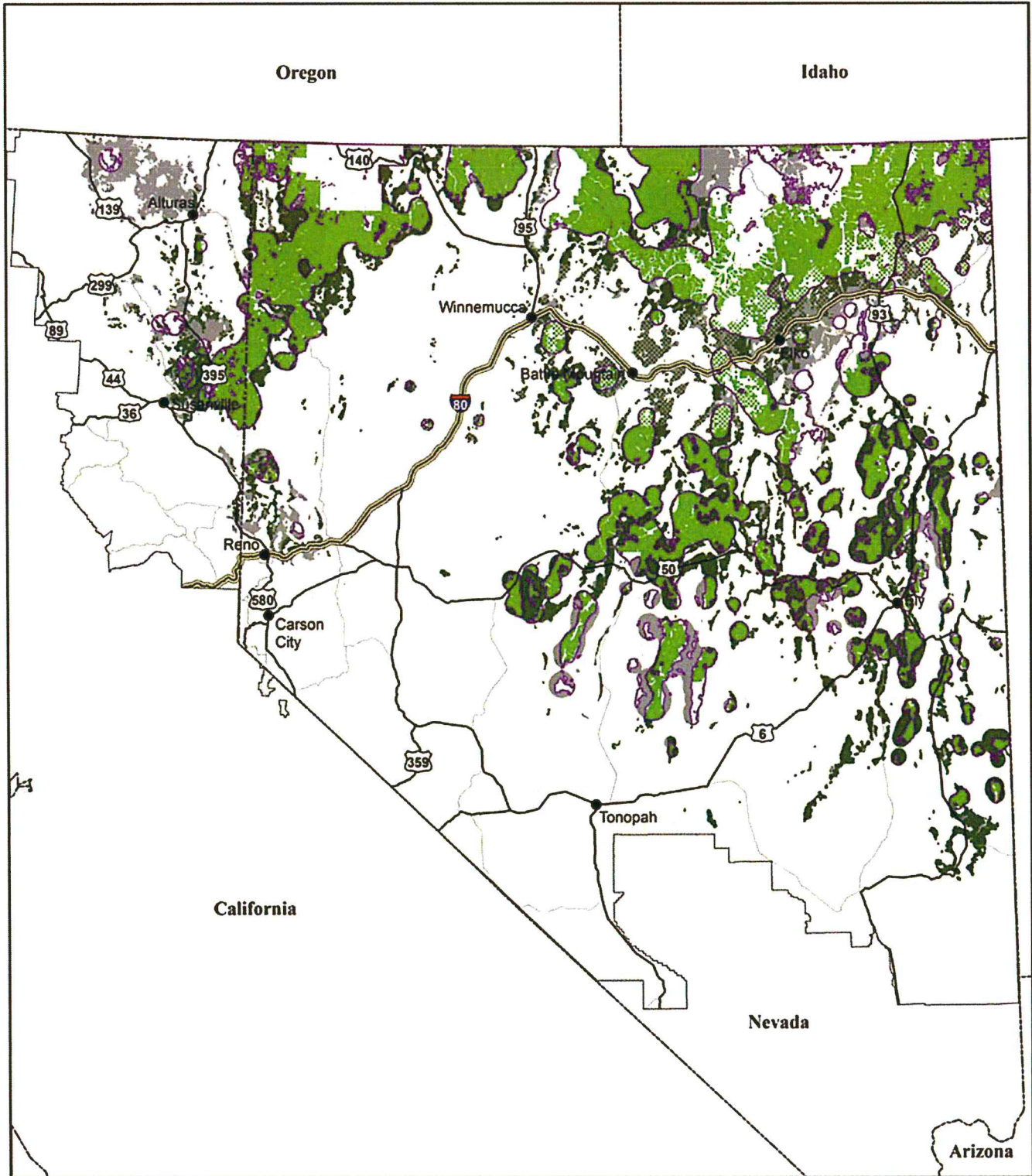


Figure 2-3: Nevada and Northeastern California Livestock Grazing

PHMA	GHMA		Outside BLM Decision Area		Planning Area Boundary		State Boundary
		Areas Available for Livestock Grazing					

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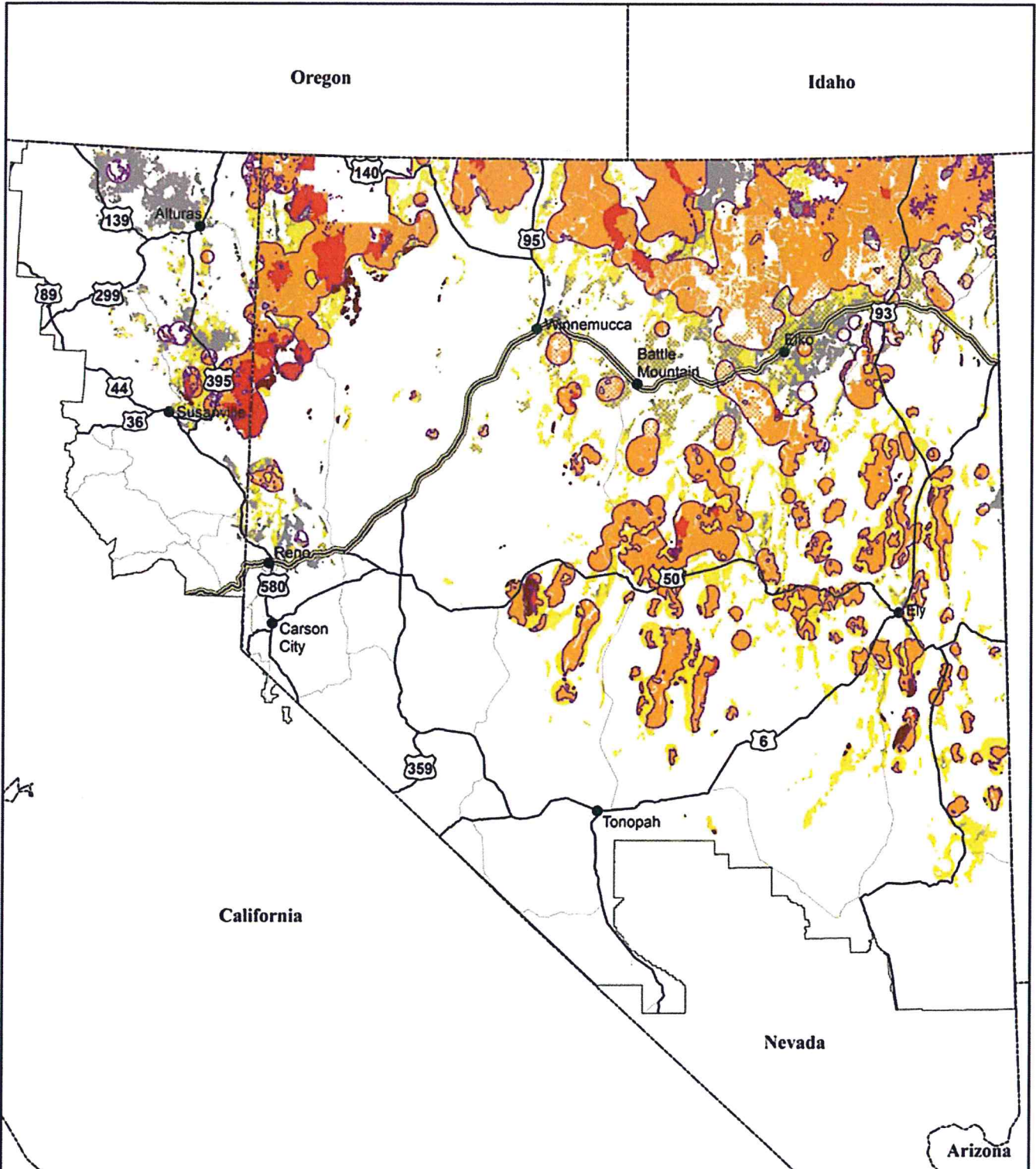


Figure 2-4: Nevada and Northeastern California Fluid Minerals (Oil, Gas, and Geothermal)

PHMA	GHMA				
		Outside BLM Decision Area		Planning Area Boundary	<p>September 2015</p>
		Closed		State Boundary	
		Open w/ Major Stipulations (NSO)			<p>Map Area</p>
		Open w/ Moderate Stipulations (CSU and/or TL)			

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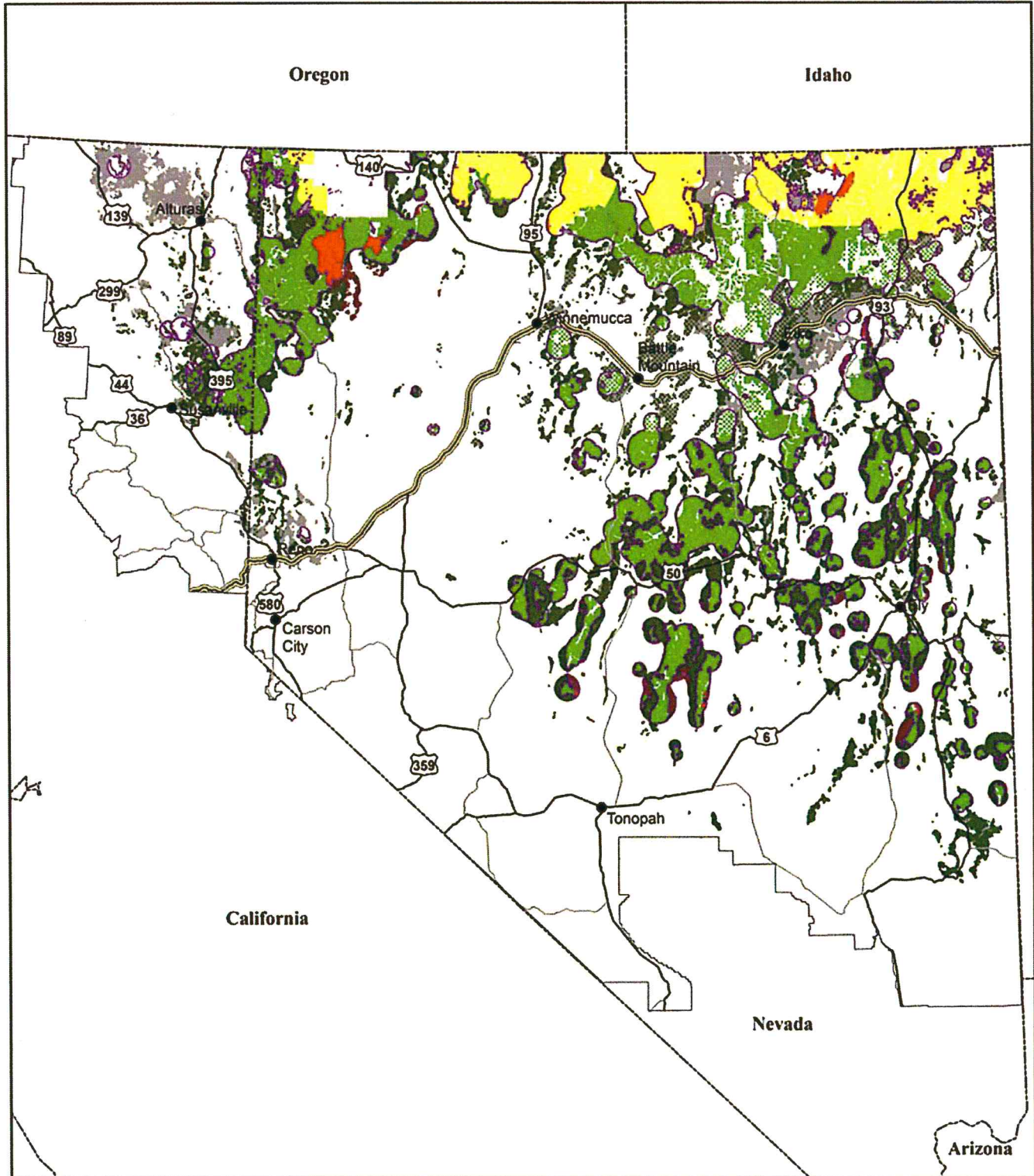


Figure 2-5: Nevada and Northeastern California Locatable Minerals

PHMA	GHMA		
		Outside BLM Decision Area	
		Existing Withdrawals	
		Recommended Withdrawals	Planning Area Boundary
		Locatable Minerals Open	State Boundary



0 30 60 Miles

September 2015



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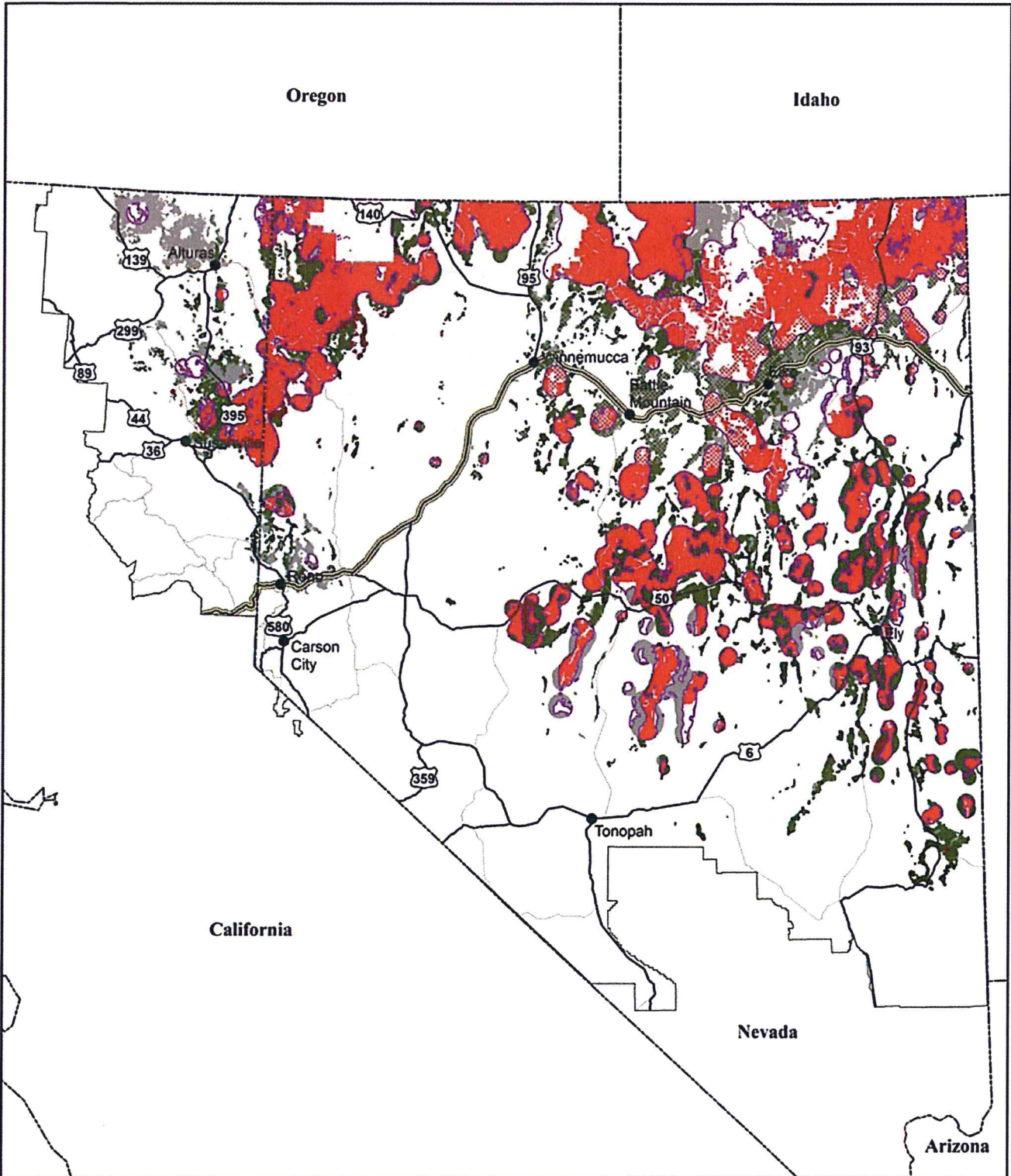


Figure 2-6: Nevada and Northeastern California Salable Minerals (Mineral Materials)

PHMA	GHMA		
		Outside BLM Decision Area	
		Closed	
		Open	
			Planning Area Boundary
			State Boundary



0 30 60 Miles

September 2015



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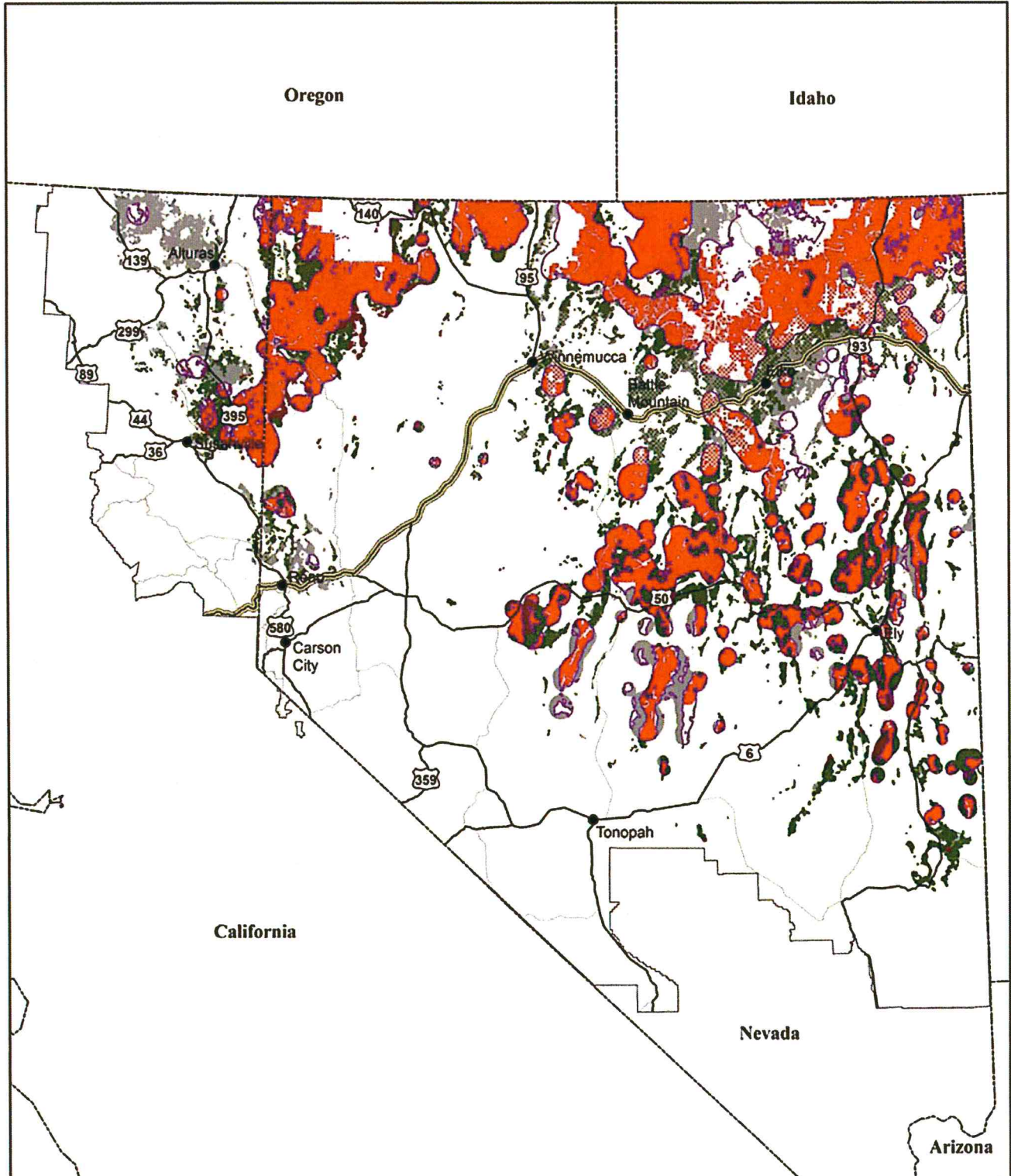


Figure 2-7: Nevada and Northeastern California Non Energy Leasable Minerals

PHMA	GHMA		
		Outside BLM Decision Area	
		Closed	
		Open	Planning Area Boundary
			State Boundary



0 30 60 Miles

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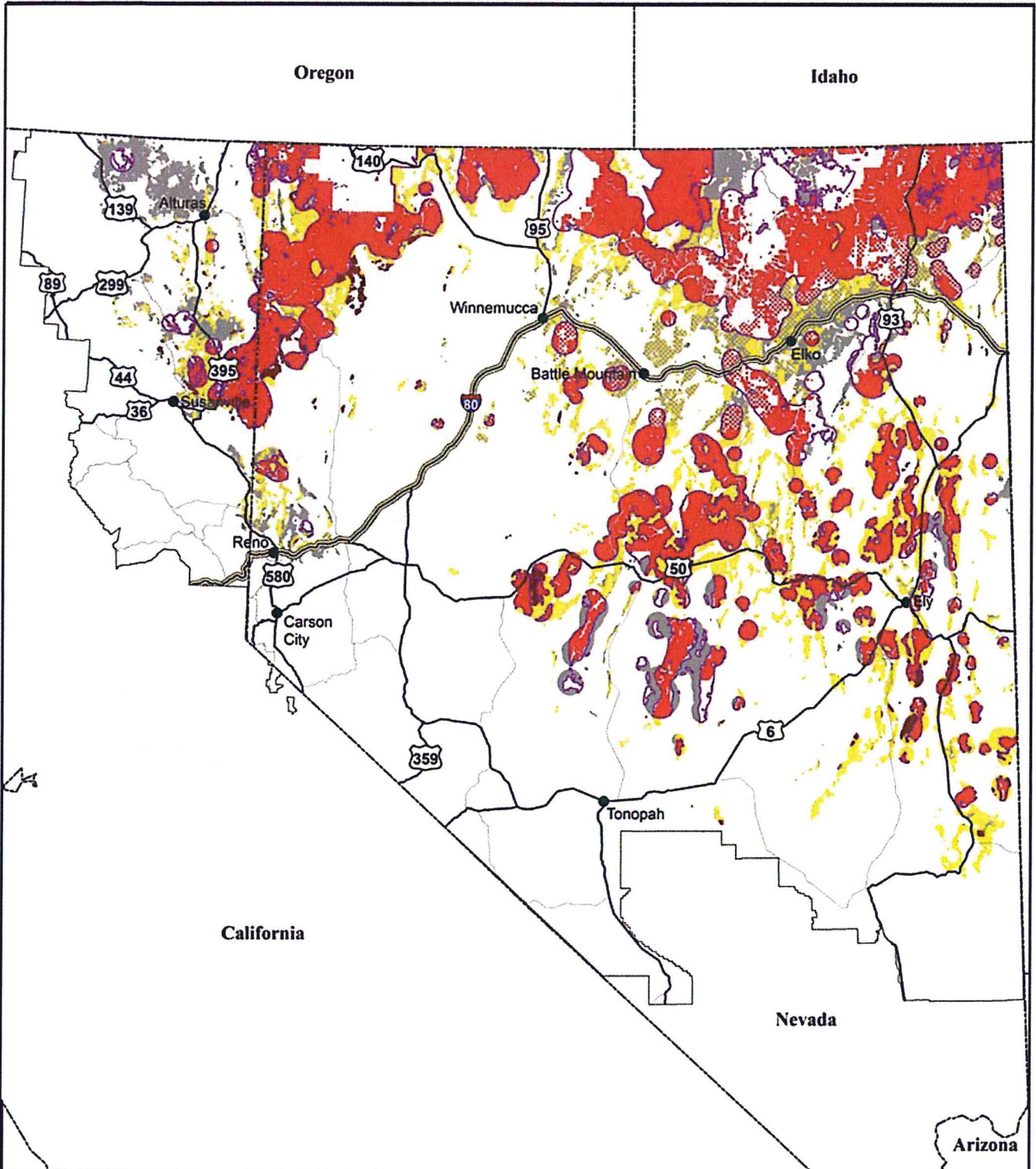


Figure 2-8: Nevada and Northeastern California Wind

PHMA	GHMA		
		Outside BLM Decision Area	
		Exclusion	
		Avoidance	Planning Area Boundary
			State Boundary

September 2015



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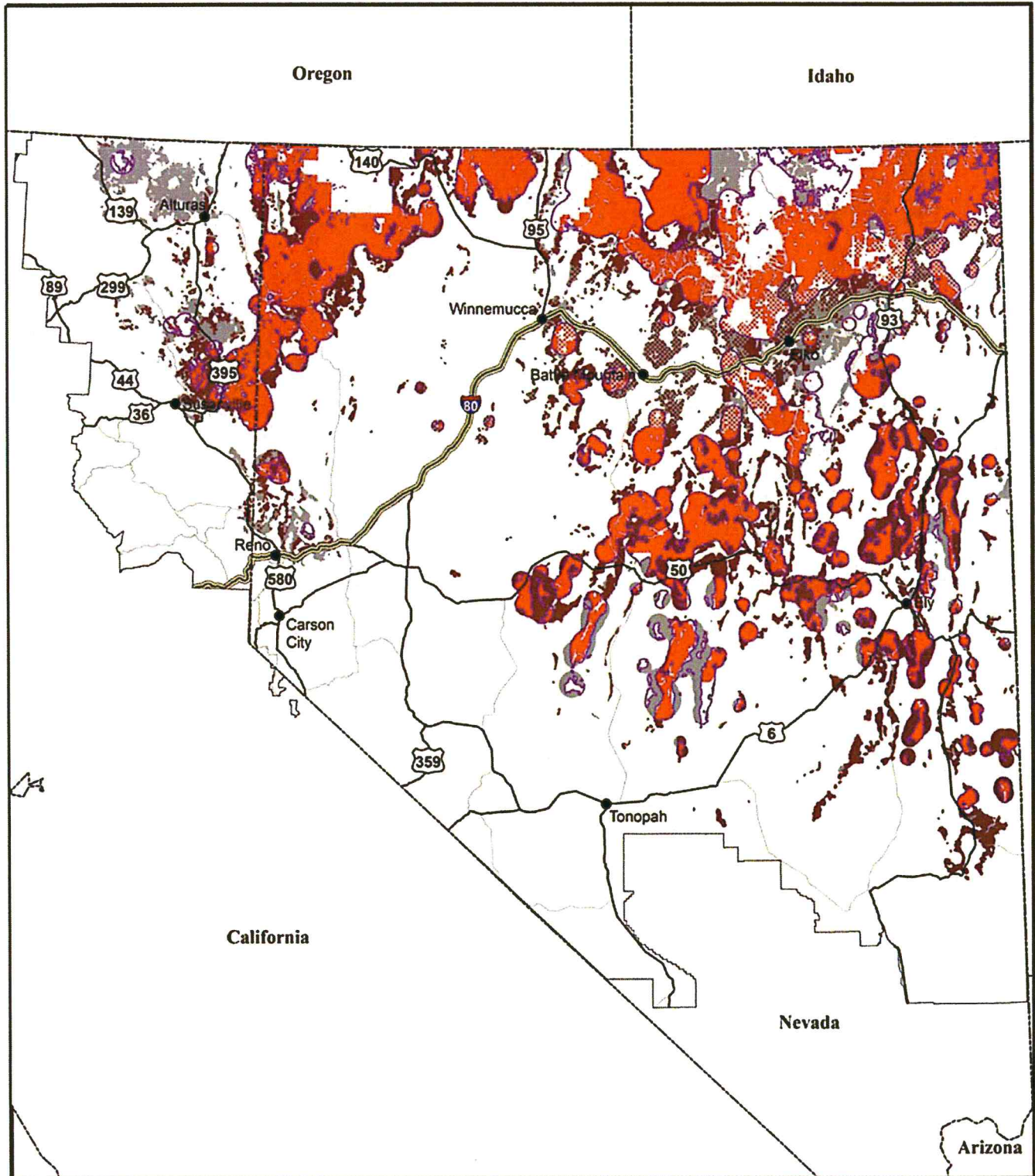
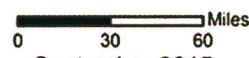


Figure 2-9: Nevada and Northeastern California Solar



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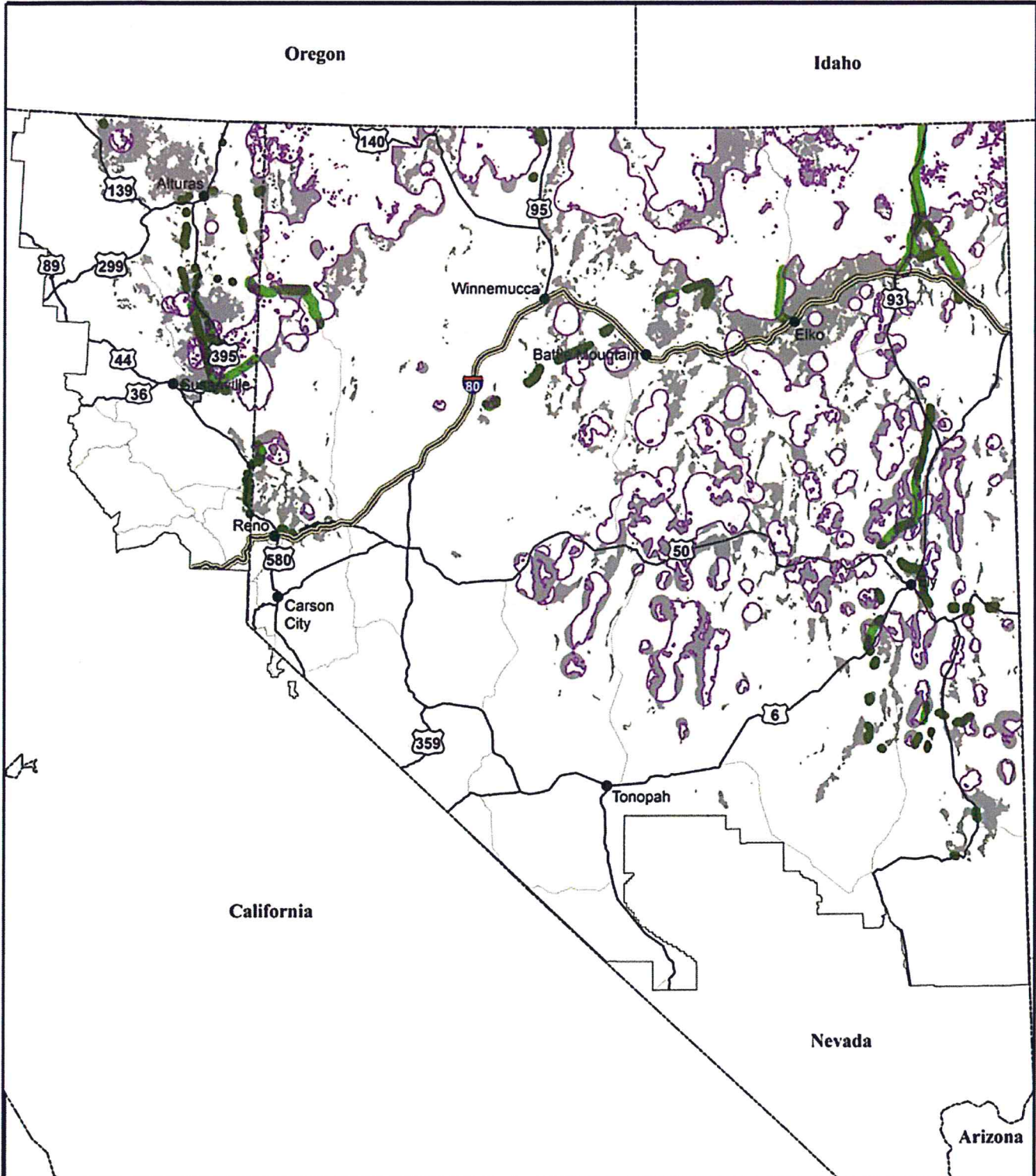






Figure 2-10: Nevada and Northeastern California Designated Utility Corridors

<p>PHMA GHMA</p> <p>Outside BLM Decision Area</p> <p>Utility Corridor</p>	<p>Planning Area Boundary</p> <p>State Boundary</p>	   <p>Miles 0 30 60</p> <p>September 2015</p>	<p>Map Area</p> 
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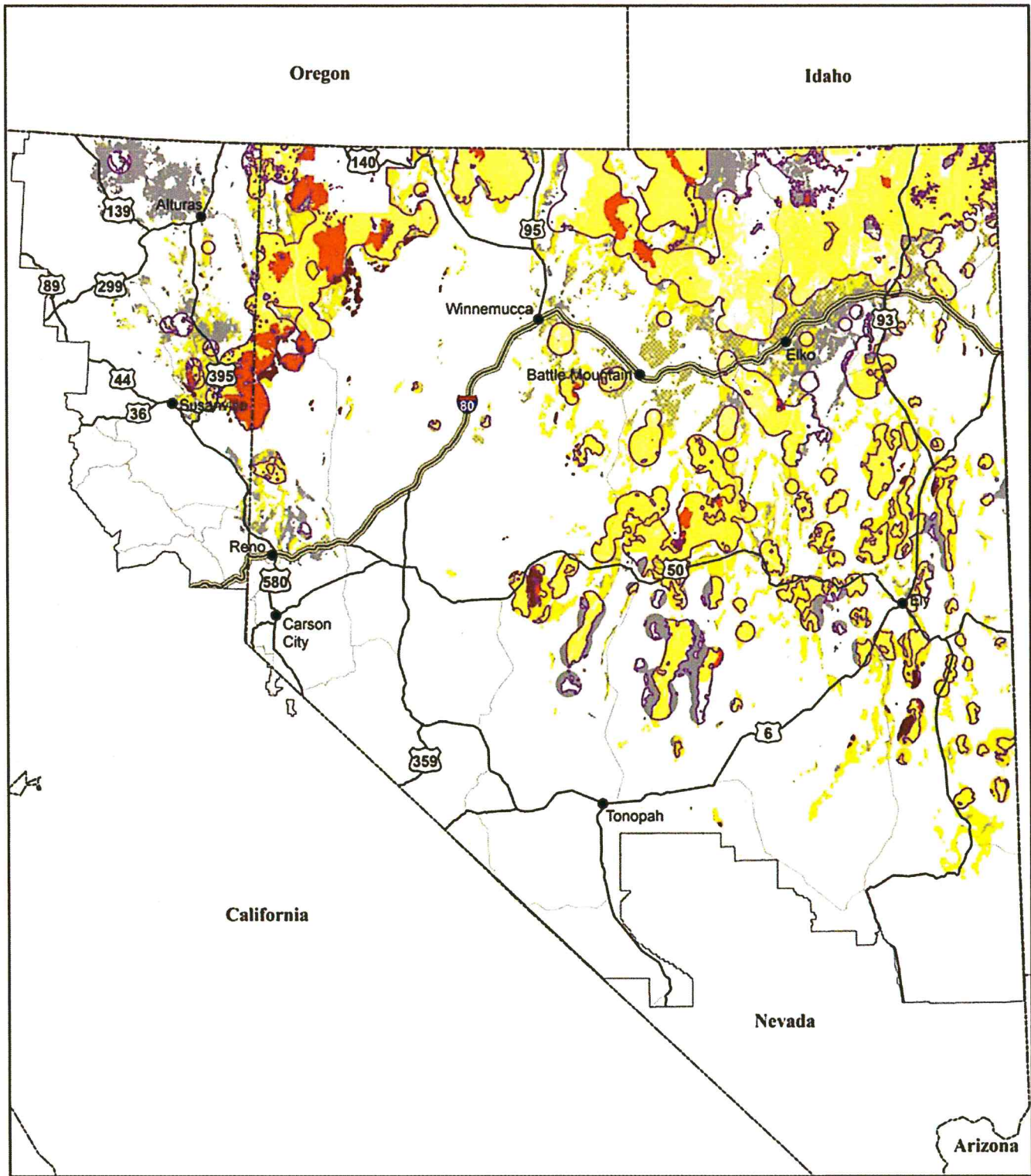


Figure 2-11a: Nevada and Northeastern California Major Rights-of-Way

PHMA
GHMA

- Outside BLM Decision Area
- Exclusion
- Avoidance

- Planning Area Boundary
- State Boundary



0 30 60 Miles

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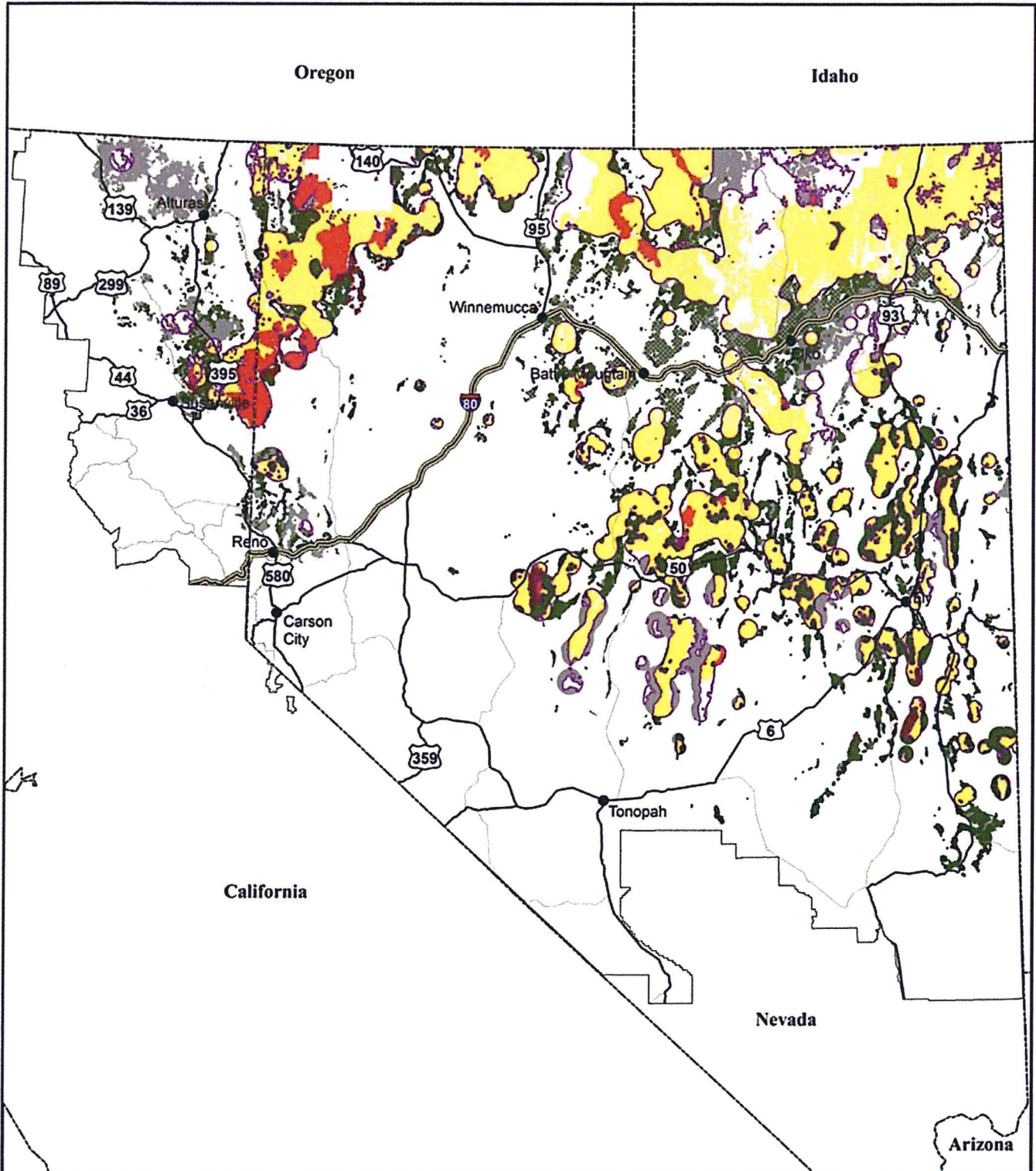







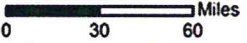




Figure 2-11b: Nevada and Northeastern California Minor Rights-of-Way

PHMA	GHMA	Outside BLM Decision Area	Planning Area Boundary	  
		Exclusion	State Boundary	
		Avoidance		
		Open		

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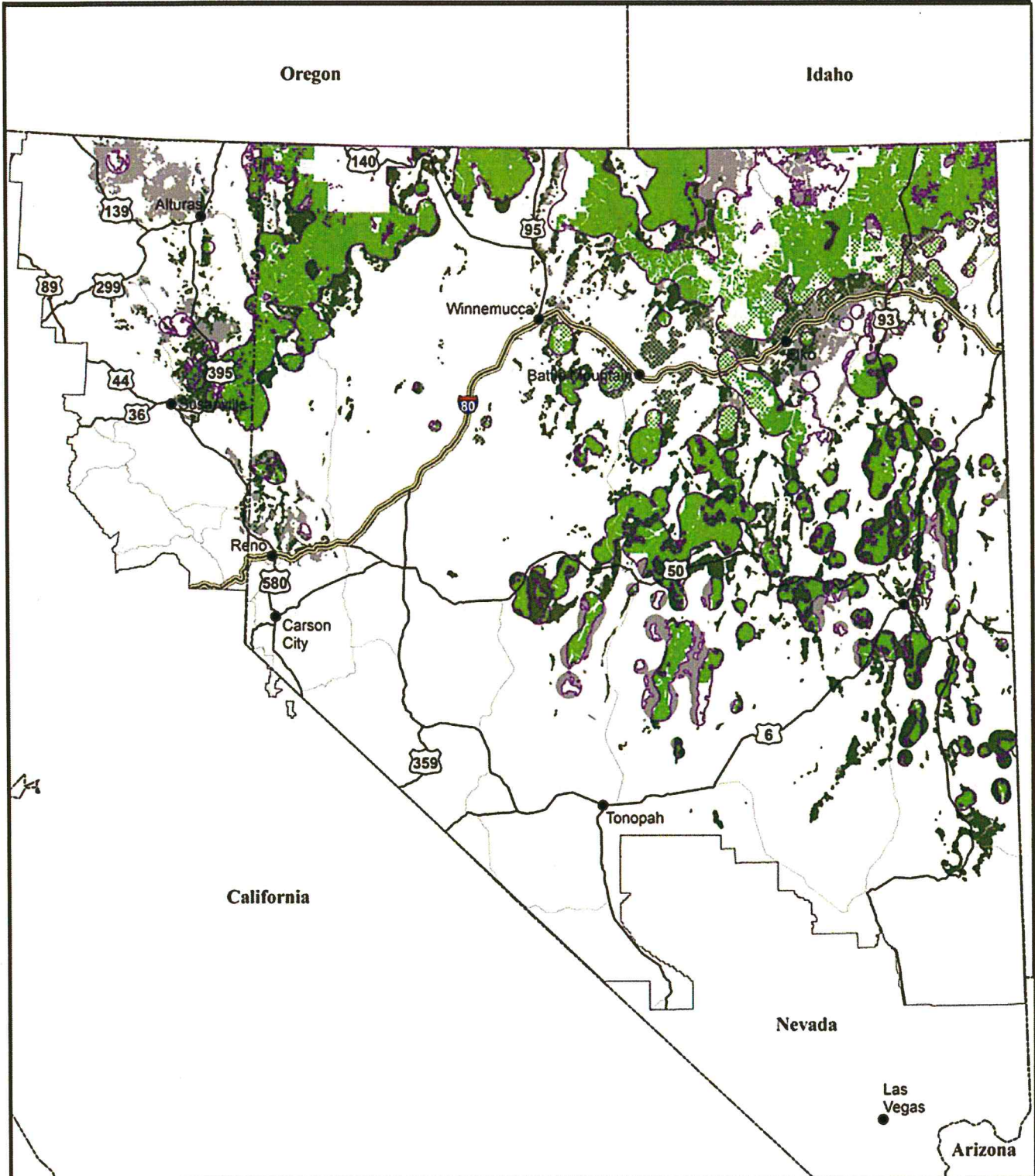


Figure 2-12: Nevada and Northeastern California Land Tenure

PHMA	GHMA	Outside BLM Decision Area	Planning Area Boundary
Retention			State Boundary



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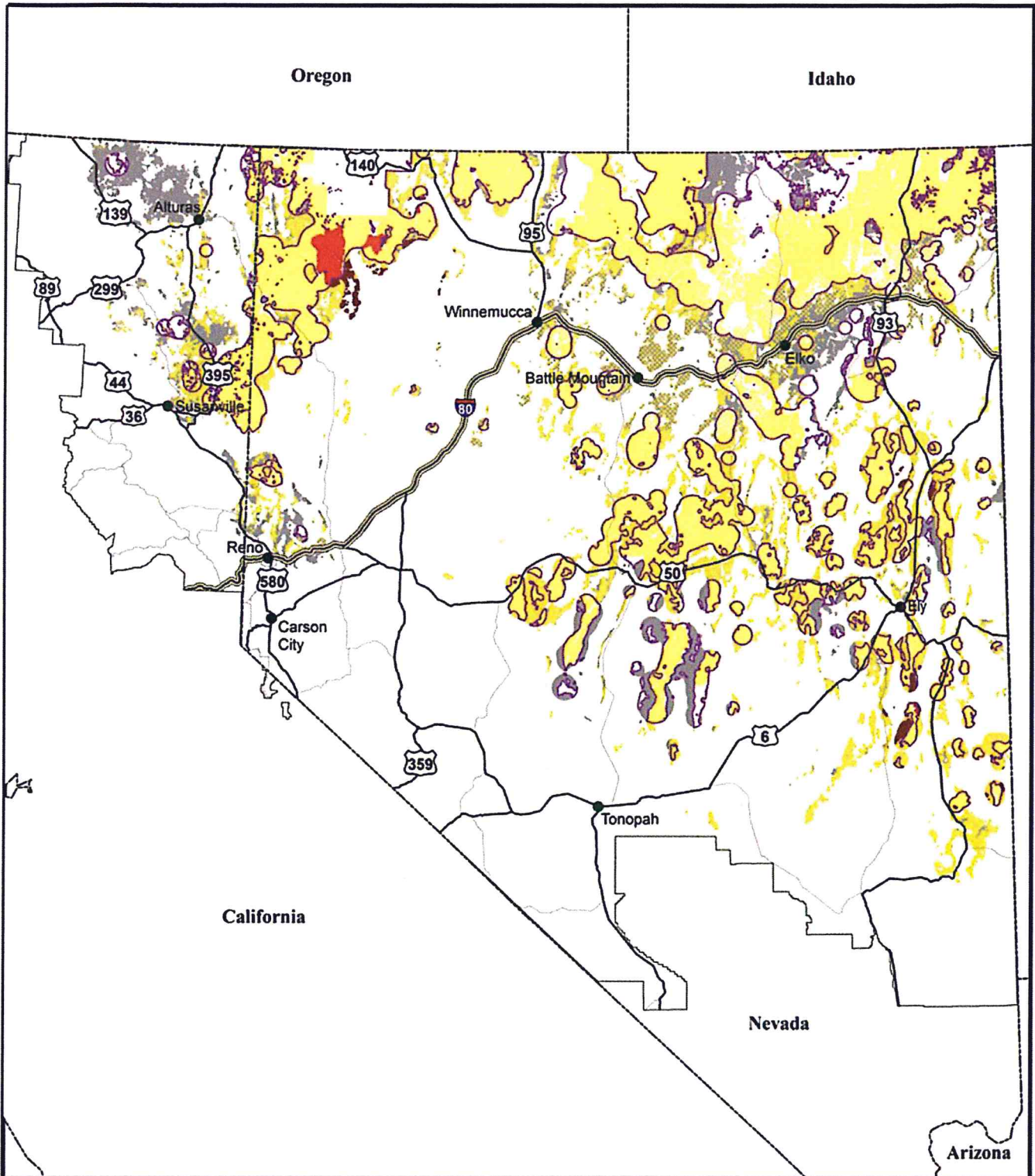


Figure 2-13: Nevada and Northeastern California Trails and Travel Management

- PHMA
- GHMA
- Outside BLM Decision Area
- Closed
- Limited

- Planning Area Boundary
- State Boundary

September 2015



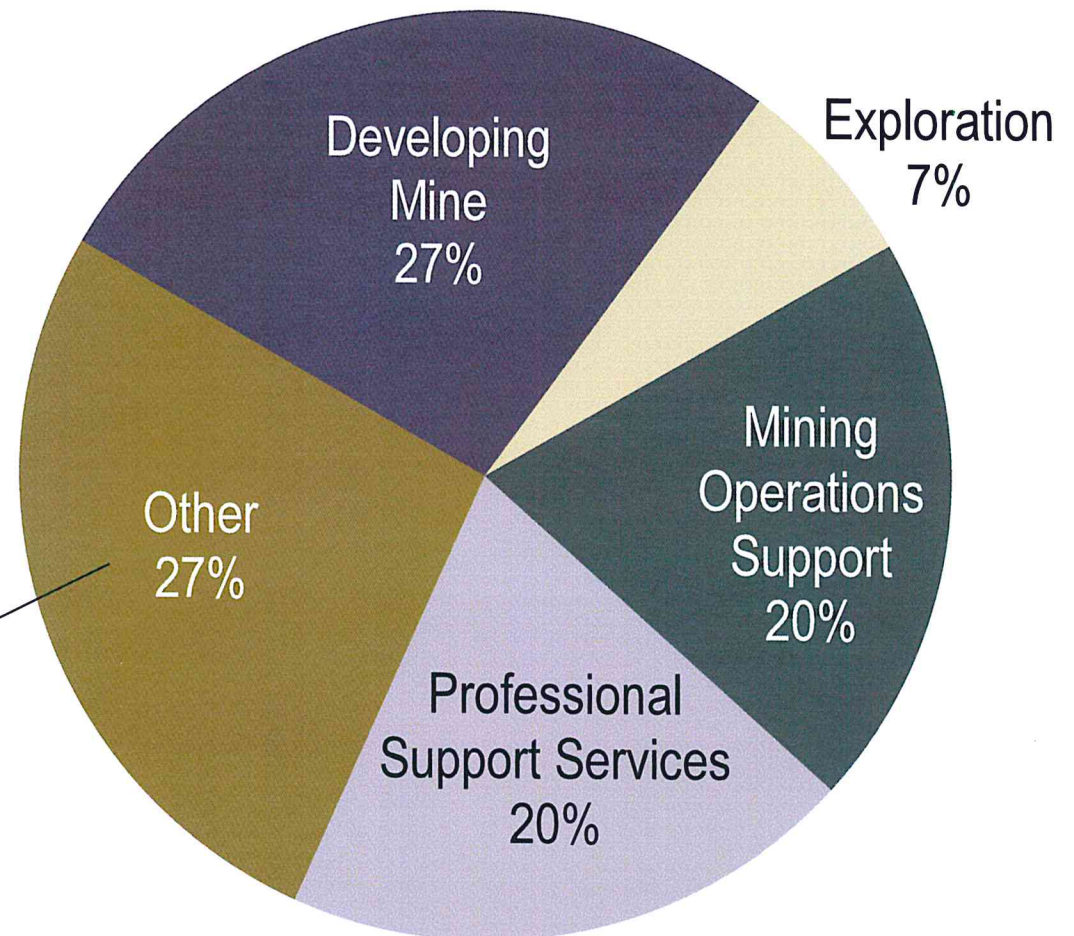
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The Mining Industry Extends Beyond Mine Operators

If not a mining operator, describe your type of business?

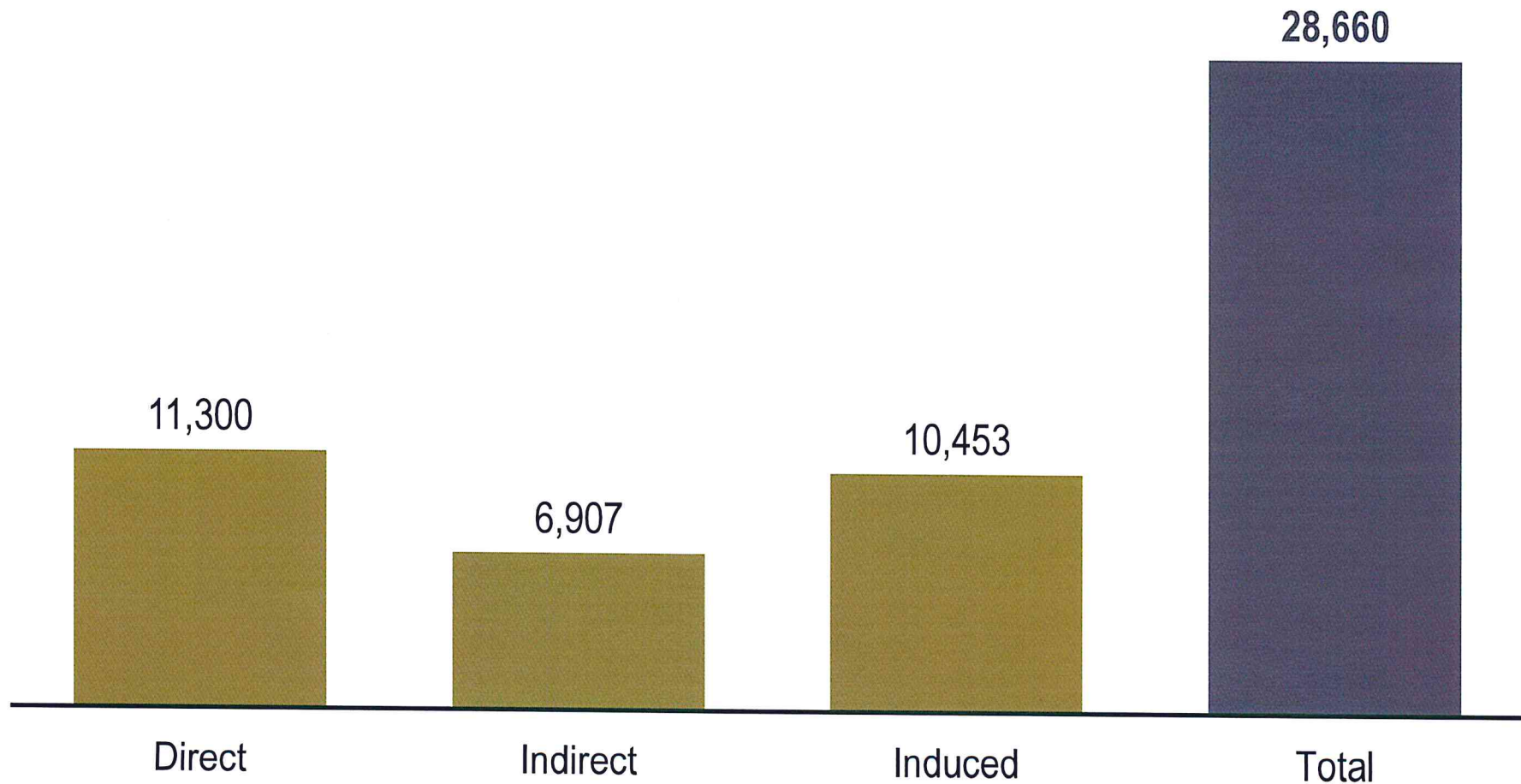
- Equipment Sales and Service
- Supply of Reagents and Related Technologies for Precious Metal Mining
- Blasting Services
- Assay Laboratory



Source: NVMA Member Survey (2015)

Employment Impacts

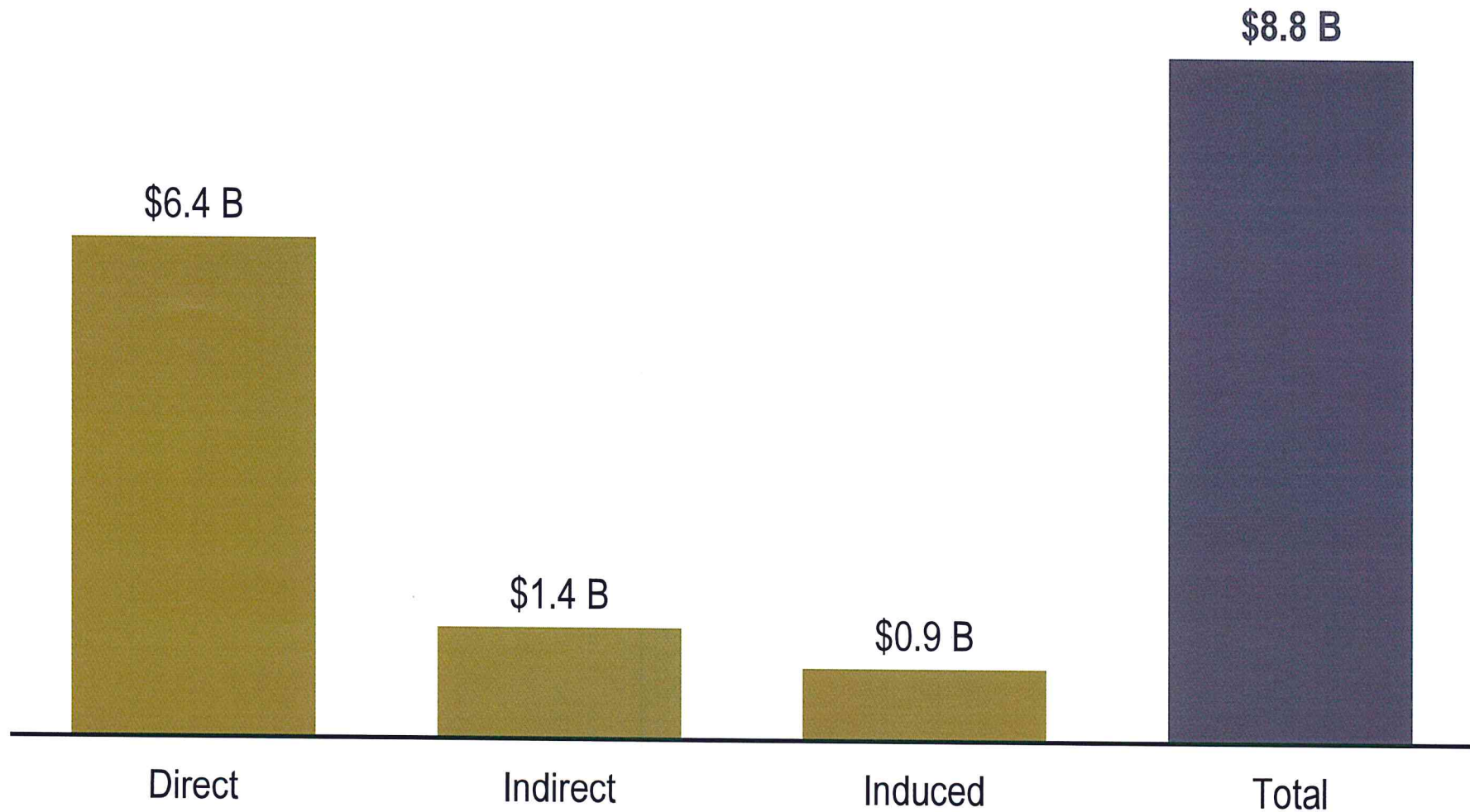
Nevada Mining Industry Operations (2014)



Source: Nevada Department of Employment, Training and Rehabilitation; Nevada Department of Taxation; IMPLAN; Applied Analysis

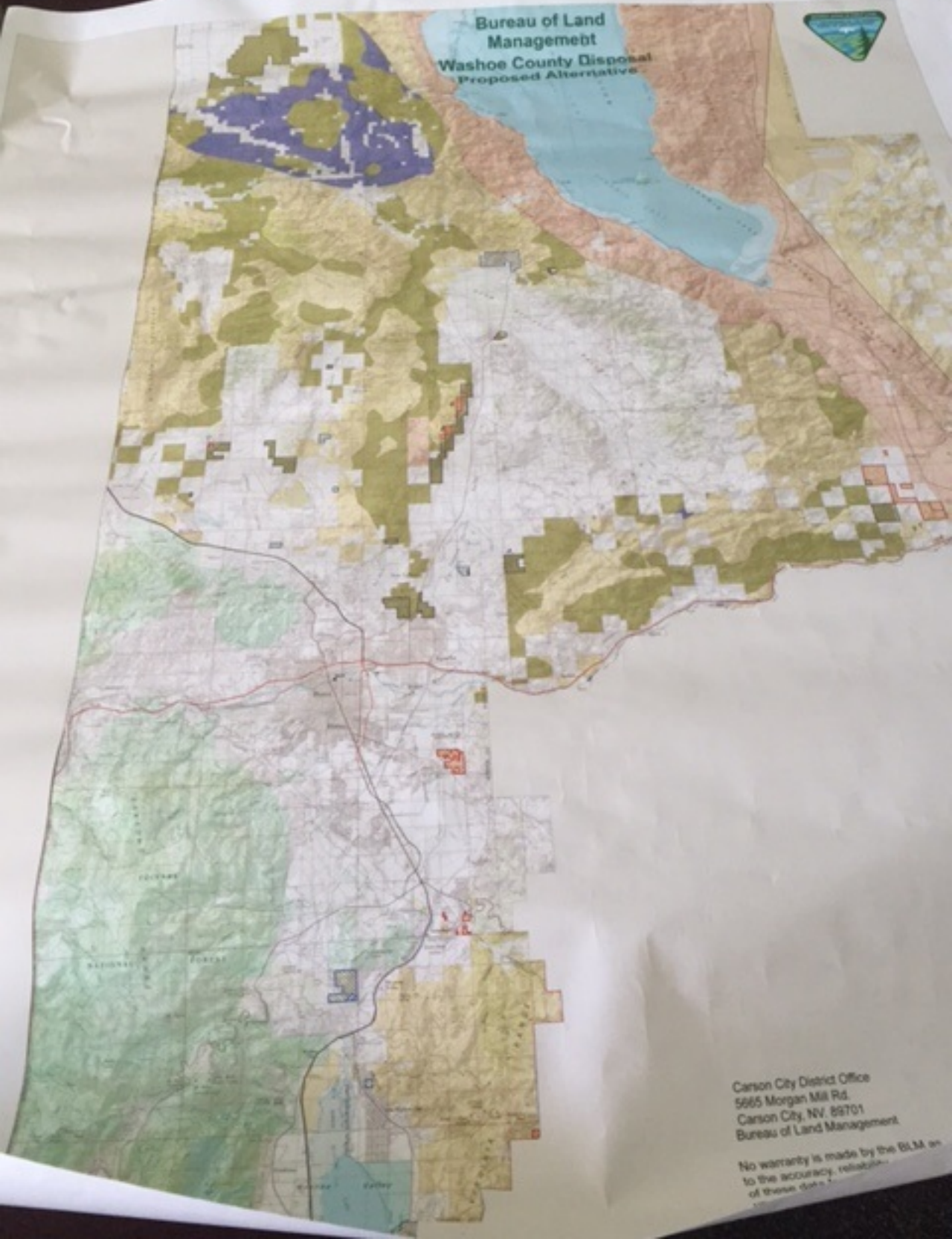
Economic Output

Nevada Mining Industry Operations (2014)



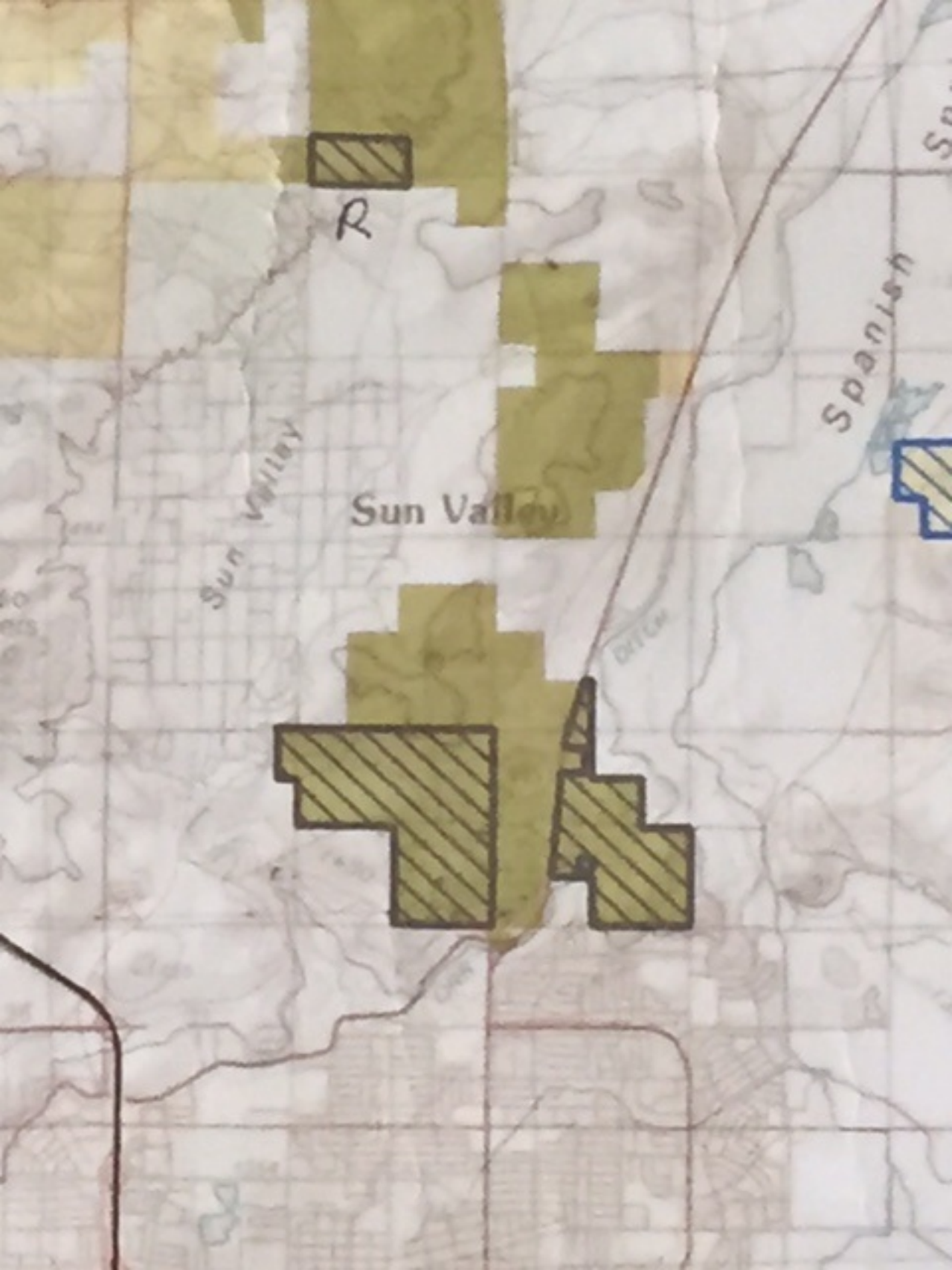
Source: U.S. Bureau of Economic Analysis; Nevada Department of Taxation; IMPLAN; Applied Analysis

Bureau of Land Management
Washoe County Disposal
Proposed Alternative



Carson City District Office
5665 Morgan Mill Rd.
Carson City, NV 89701
Bureau of Land Management

No warranty is made by the BLM as to the accuracy, reliability, or completeness of these data.



R

Sun Valley

Sun Valley

Spanish

Ditch