## UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	)
Plaintiff,	) Case No. 2:15-cv-01743-MMD-NJK
v. 400 ACRES OF LAND, MORE OR LESS, SITUATE IN LINCOLN COUNTY, STATE OF NEVADA; and JESSIE J. COX, et al.,	) ORDER DETERMINING LEGAL VALIDITY OF TAKING AND STRIKING IMPROPER DEFENSES ) )
Defendants.	)

This is a federal eminent domain proceeding to condemn property for the purpose of operating the Nevada Test and Training Range, a military test and training facility at Nellis Air Force Base.

Plaintiff United States of America initiated this case by filing a Complaint in Condemnation [ECF No. 1], to which several Defendant-Landowners jointly filed an Answer [ECF No. 53] setting forth their objections, defenses, challenges and responses. Pending before the Court are the United States' Combined Motion for Summary Judgment on the United States' Authority to Condemn and Motion to Strike Improper Defenses and Immaterial Matters [ECF No. 54], the Defendant-Landowners' Opposition [ECF No. 59], and the United States' Reply [ECF No. 66]. Having considered the pleadings and hearing the arguments of counsel, and for good cause shown, it is hereby ORDERED:

- The United States' Motion for Summary Judgment on the United States' Authority to Condemn is *GRANTED*. This taking is for a congressionally authorized public use identified in the United States' Complaint [ECF No. 1-3], and is legally valid; and this Court has jurisdiction over all relevant matters in this proceeding under 28 U.S.C. § 1358.
- The United States' Motion to Strike is *GRANTED* with respect to the affirmative defenses raised by the Defendant-Landowners in their Answer [ECF No. 53]. The defenses of laches, waiver and failure of consideration do not apply in federal condemnation proceedings.

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$\begin{bmatrix} 1 \\ 2 \end{bmatrix}$	The United States' Motion to Strike is <b>DENIED</b> with respect to remaining matters. The				
3	remaining objections, demands and responses in the Defendant-Landowners' Answer [ECF				
4	No. 5	53] do not affect the legal valid	of the taking and need not be addressed by the Court at		
5	this time.	10			
6	DATED:	October 4, 2016	1 Color		
7			UNITED STATED DISTRICT JUDGE		
8					
9			Respectfully submitted by:		
10			UNITED STATES OF AMERICA		
11					
12			DANIEL G. BOGDEN United States Attorney		
13			District of Nevada		
14			TROY K. FLAKE Assistant United States Attorney		
15			/s/ Georgia Garthwaite		
16			GEORGIA GARTHWAITE		
17			/s/ Johanna Franzen		
18			JOHANNA FRANZEN		
19			Trial Attorneys		
20			U.S. Department of Justice		
			Attorneys for Plaintiff United States		
21					
22			Approved as to content and form:		
23					
24			LAW OFFICES OF KERMITT L. WATERS		
25			/s/ Autumn Waters		
26			KERMITT L. WATERS JAMES JACK LEAVITT		

## MICHAEL A. SCHNEIDER AUTUMN WATERS

Attorneys for Defendant Sheahan Landowners

1	CERTIFICATE OF SERVICE	
2	I hereby certify that on September 19, 2016, I served the foregoing proposed order on all	
3	parties who have appeared in this action using the Court's case management/electronic case filing	
4	system. In addition, I hereby certify that on September 19, 2016, I caused a copy of the foregoing	
5		
6	proposed order to be sent via U.S. mail to the following parties:	
7	Lincoln County c/o Daniel Hooge, District Attorney, Lincoln	
8	181 North Main Street, Suite 203 P.O. Box 60	
9	Pioche, NV 89043	
10	Sandra Sears-Lavallee	
11	4729 San Rafael Avenue Las Vegas, NV 89120-1676	
12	Patricia Fern Sears	
13	P.O. Box 71	
14	Pioche, NV 89043-0071	
15	John B. Sheahan c/o Michael W. Sheahan	
16	6717 Rolling Meadows	
17	Drive #916 Sparks, NV 89436-0106	
18	Deborah Lynn Sheahan	
19	4662 Gabriel Drive Las Vegas, NV 89121	
20	245 7 6545, 1 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7	
21		
22	<u>/s/ Georgia Garthwaite</u> GEORGIA GARTHWAITE	
23		
24		